made an officer and was given men to command. We did not ask for quarter, nor did we give much. At that time, if we violated a rule, if we violated a military concept, there was prompt retribution. There was no time to do anything about it. Those were the days when a sergeant came up from the ranks because he ought to be a sergeant, because men respected him for his power or understanding of personality, not because he had passed an examination somewhere.

The report of the select committee cites testimony that General Zwicker used the expression "You s. o. b." with reference to Senator McCARTHY—and I do not think, Mr. President, from the context, that he meant Senate Office Building.

There is other evidence in the report that General Zwicker was "antagonistic" to the junior Senator from Wisconsin long in advance of the hearings to which he was called. The select committee does not, however, find this "reprehensible." Its only criticism is against Senator McCARTHY.

On the basis of the select committee's own findings, there is no constitutional warrant whatsoever for censure of the junior Senator from Wisconsin, who has violated no law or rule of the Senate, and who certainly has not been guilty or charged with being guilty of disorderly behavior.

MOVE TO TABLE

Mr. President, if an agreement can be had with the majority leader that the Senate might meet on Saturday morning next, at that time, whenever the senior Senator from Nevada can obtain the floor, he will move to table Senate Resolution 301. If it is not possible to reach an agreement to have the Senate meet on Saturday morning, then at any time on Friday when the senior Senator from Nevada can obtain the floor, he will move to table Senate Resolution 301.

RECESS TO 11 A. M. TOMORROW

Mr. KNOWLAND. Mr. President, pursuant to the prior announcement, I now move that the Senate stand in recess until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 54 minutes p. m.) the Senate took a recess until tomorrow, Wednesday, November 17, 1954, at 11 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate November 16 (legislative day of November 10), 1954:

UNITED STATES DISTRICT JUDGES

Edward J. Devitt, of Minnesota, to be United States district judge for the district of Minnesota, vice Matthew M. Joyce, retired.

William E. Miller, of Tennessee, to be United States district judge for the middle district of Tennessee, to fill a new position.

IN THE NAVY

Rear Adm. Frederic S. Withington, United States Navy, to be Chief of the Bureau of Ordnance in the Department of the Navy for a term of 4 years.

SENATE

WEDNESDAY, NOVEMBER 17, 1954

(Legislative day of Wednesday, November 10, 1954)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O Thou Father of our spirits who hearest prayer, to whom all flesh shall come, breathe upon our agitated hearts, we beseech Thee, the benediction of Thy holy calm. Lift the burdens of drab duties and change stern statutes into glad songs. Soothe the anxieties of our baffled spirits, so that with the shield of Thy peace and the sword of Thy truth we may face whatever tests this day may bring, free and fearless. Kindle on the altar of our hearts a flame of devotion to freedom's cause in all the world that shall consume in its white heat every grosser passion. And may our democracy, confessing its failures and purged of its failings, be more and more an inspiring and emancipating power for world security and stability amid the crucial conflict now raging in its mad fury around the world. We ask it in the name of the Prince of Peace. Amen.

THE JOURNAL

On request of Mr. THYE, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, November 16, 1954, was dispensed with.

ALEXANDER HAMILTON BICENTENNIAL COMMISSION

The VICE PRESIDENT. The Chair appoints the Senator from New York [Mr. IVES], the Senator from South Dakota [Mr. MUNDT], the Senator from Virginia [Mr. BYRD], and the Senator from Missouri [Mr. HENNINGS] as members on the part of the Senate of the Alexander Hamilton Bicentennial Commission, created by Public Law 601 of the 83d Congress, approved August 20, 1954.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. THYE. Mr. President, I ask unanimous consent that immediately following the quorum call there may be the customary morning hour for the transaction of routine business, under the usual 2-minute limitation on speeches.

The VICE PRESIDENT. Without objection, it is so ordered.

CALL OF THE ROLL

Mr. THYE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Abel	Fulbright	Malone
Anderson	George	Mansfield
Barrett	Gillette	Martin
Bennett	Goldwater	McClellan
Bridges	Green	Monroney
Brown	Hayden	Mundt
Burke	Hendrickson	Murray
Bush	Hennings	Neely
Byrd	Hickenlooper	Pastore
Capehart	Hill	Payne
Carlson	Holland	Potter
Case	Hruska	Purtell
Chavez	Humphrey	Robertson
Clements	Ives	Russell
Cooper	Jackson	Saltonstall
Cotton	Jenner	Schoeppel
Crippa	Johnson, Colo.	Smith, Maine
Daniel, S. C.	Johnson, Tex.	Smith, N. J.
Daniel, Tex.	Johnston, S. C.	Sparkman
Dirksen	Kefauver	Stennis
Douglas	Kilgore	Symington
Duff	Knowland	Thye
Dworshak	Kuchel	Watkins
Eastland	Langer	Welker
Ellender	Lehman	Wiley
Ervin	Lennon	Williams
Ferguson	Long	Young
Flanders	Magnuson	

Mr. SALTONSTALL. I announce that the Senator from Vermont [Mr. AIKEN] is absent on official business.

The Senator from Ohio [Mr. BRICKER] is absent by leave of the Senate.

The junior Senator from Maryland [Mr. BEALL], the senior Senator from Maryland [Mr. BUTLER], the Senator from Oregon [Mr. CORDON], the Senator from Colorado [Mr. MILLIKIN], and the junior Senator from Wisconsin [Mr. McCARTHY] are necessarily absent.

Mr. CLEMENTS. I announce that the Senator from Delaware [Mr. FREAR] is absent on official business.

The Senator from Oklahoma [Mr. KERR] is necessarily absent.

The Senator from Tennessee [Mr. GORE] and the Senator from Florida [Mr. SMATHERS] are absent by leave of the Senate on official business.

The Senator from Massachusetts [Mr. KENNEDY] is absent by leave of the Senate because of illness.

The Senator from Oregon [Mr. MORSE] is necessarily absent.

The PRESIDING OFFICER (Mr. COTTON in the chair). A quorum is present.

Routine business is now in order.

COMMUNIST DOCTRINE OF WORLD REVOLUTION

Mr. WILEY. Mr. President, for the past 8 years a major portion of our legislative endeavors have been focused upon meeting the single, all-embracing challenge of world communism and world revolution. In these august chambers and throughout the breadth and width of our free world, we have heard debates concerning the true nature and extent of the Communist global menace. We have heard arguments concerning the meaning of Leninism, of Stalinism, of Malenkov-Marxism—arguments concerning the meaning of such fundamental terms as "peace," "coexistence," "imperialism," "Marxian-socialism," and, finally, "world revolution."

The actual meaning of these fundamental concepts, as employed by the West and as employed by the forces of

world communism, are as different as the respective philosophies of a totalitarian and of a free society. Based on our understanding of these principles of world communism and world revolution, we have endeavored to formulate our policies. The preservation of our American heritage, no less than the very survival of our entire free world, depends upon the correctness of our understanding. We cannot afford to err in our analysis of world communism and world revolution.

Therefore, in my capacity as chairman of the Senate Foreign Relations Committee, I have been preparing, in cooperation with numerous experts to whom I shall refer, a detailed outline, based upon official Communist sources, of the Communist doctrine of world revolution. This outline presents, in a consistent and coherent step-by-step form, the total principles of revolution, as revealed most starkly in the policy statements of Communist leaders. In these quotations, they repeat their fundamental principles of revolution, without actual variation from the inception of communism to the present time.

This study has been made in consultation with Russian, Slavic, and Chinese experts in the Library of Congress; in consultation with various policy and research organizations in our executive branch; and in consultation with leading professional scholars in the field of world Communist studies. It is a definitive study which attempts to outline the total doctrine of world revolution, through an overall analysis of Communist policy statement, from Marx to the present.

It is my sincere hope and intent that this study will prove of service to those of us who bear the pressing legislative responsibility for countering the continuous global Communist menace. I hope it will aid our American citizens and the other people of the free world to a clearer understanding of the most destructive totalitarian doctrine known to man.

I therefore ask unanimous consent that this study, which I am completing, be printed as a Senate document.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin? The Chair hears none, and it is so ordered.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. WILEY:

Summary describing United States cooperation with the forces of international science.

FREEDOM OF DEBATE AMONG CADETS AND MIDSHIPMEN

Mr. ROBERTSON. Mr. President, as a member of the Board of Visitors to the Military Academy and a former member of the Board of Visitors to the Naval Academy, I take great interest in the work being done by those splendid service schools and am proud of the type of training they give our future military leaders. Consequently, I regretted to hear Edward R. Murrow criticize those service schools in his broadcast last night because of their refusal to let the cadets and midshipmen argue in intercollegiate debate the admission of Red China to the United Nations.

Mr. Murrow knows, of course, that the hands of Red China, a deliberate aggressor in Korea, are dripping with the blood of American boys and for that reason Henry Cabot Lodge, the appointee and spokesman in the United Nations of the President, has consistently opposed the admission of Red China. He knows that this year the Senate by a unanimous vote endorsed that position of the President. He knows or in any event he certainly should know, that every boy who enters a service school immediately enlists in our military forces and becomes subject to all military regulations and discipline. They take an oath to defend our country and have no more right to publicly challenge the foreign policy of their Commander in Chief than the Joint Chiefs of Staff.

Mr. Murrow's word for today to the effect that it is better to debate a decision before it is reached than to debate the decision afterward is a good theory when properly applied.

DR. FREDERICK BROWN HARRIS

Mr. LEHMAN. Mr. President, last night I was privileged to attend the dinner given by the parishioners and friends of our Chaplain, Dr. Frederick Brown Harris, marking the completion of 30 years' service as spiritual leader of the Foundry Methodist Church. It was a beautiful and moving occasion, in which some of Dr. Harris' friends had the opportunity to give expression to their high regard and affection for him.

With unfailing devotion Dr. Harris has discharged his high duties as a great spiritual leader for nearly a third of a century. He has also for more than a decade served as the beloved Chaplain of this body. I congratulate him, and I hope he will have many more years of good health in which to serve his fellow men.

Mr. President, I ask unanimous consent to have printed in the body of the RECORD an editorial entitled "Dr. Harris' 30 Years," which was published in last night's Washington Star.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DR. HARRIS' 30 YEARS

When the Reverend Dr. Frederick Brown Harris came to Washington to guide the destinies of Foundry Methodist Church in 1924 he was aware that the task would be hard and the burden heavy. To serve the principal Wesleyan congregation in the Capital of the United States in a period of national, cultural, and social expansion would require the best talents, the wisest judgment, the zeal, and the energy of any minister, however gifted and enthusiastic. But Dr. Harris' pastorate, it soon became clear, was not to be limited to any single house of prayer or any single denomination. Almost from the start, he was to be called upon to work for a still greater cause and a still more numerous community.

Year by year his opportunities grew and his capacity for meeting them increased. Especially when he was named Chaplain of the Senate in 1942, his activities assumed a universal importance. He moved into new fields also when he began to contribute his Spires of the Spirit column to the Sunday Star in 1947. His books of essays and poems coincidentally have added to the reach of his mind, his heart, and his hands.

What the future holds for Dr. Harris should be a reasonable facsimile of what the past has held. His friends, joining to thank him for the services already rendered, wish for him a long and fruitful continuance of the labors that he loves.

Mr. CASE. Mr. President, I wish to associate myself with the remarks of the able Senator from New York with reference to the outstanding service which Dr. Harris has rendered to the people of the city of Washington and, by reason of that fact, to the people of the country, as well as to the Senate.

I am sorry I was not able to attend the testimonial dinner, because of the press of other duties. However, I do appreciate the great record of Dr. Harris. I am glad the Senator from New York has seen fit to call the Senate's attention to it.

Mr. SMITH of New Jersey. Mr. President, I am very happy to associate myself with the remarks just made by the Senator from New York and the Senator from South Dakota with regard to Dr. Harris. I noted in the CONGRESSIONAL RECORD attention has been called to the fact that Dr. Harris is celebrating his 30th anniversary as a spiritual leader. I am one of those who value a very warm personal friendship with Dr. Harris, and I am glad to add my few words to what has been said in deep appreciation of his wonderful service. I express the hope that he may be with us for many years more.

THE MARINE CORPS AND THE CHIEF OF NAVAL OPERATIONS

Mr. MANSFIELD. Mr. President, in view of the continuing press reports that the Chief of Naval Operations is attempting to gain control of the Marine Corps, I addressed a letter to Secretary of Defense Wilson, on November 9, 1954, requesting certain information and a pertinent document. That letter appears in the course of my remarks in the November 12, 1954, CONGRESSIONAL RECORD.

I took that occasion to bring this subject to the attention of the Senate. It is my opinion that this issue is of major importance to the membership of the Senate, for if the Chief of Naval Operations gains an element of control, direct or indirect, over the Marine Corps and its Commandant, then Public Law 416—the Marine Corps bill—of the 82d Congress will have been violated.

It is of particular interest to the membership of the Senate, for approximately 40 Senators joined in sponsoring that legislation.

I am confident that the Senate shares my determination that the Marine Corps bill shall not be violated by administrative action in the Department of the Navy.

In my November 9 letter to Secretary Wilson I requested a copy of a document, referred to in the recent Report of the Committee on Organization of the Department of the Navy. By that document, the Secretary of the Navy reportedly corrected any misconceptions within the Department of the Navy as to the status of the Marine Corps and its Commandant.

By way of clarification, I might point out that this organization committee was established in October 1953 and completed its work in April 1954. On the basis of my examination of that committee report it is my belief that, in general, it correctly reflected existing law as to the status of the Marine Corps within the Department of the Navy, recognizing the Marine Commandant to be directly responsible to the Secretary of the Navy, and subordinate in no manner to the Chief of Naval Operations. The document I requested on November 9 is the directive which guided the committee in arriving at its conclusions.

Yesterday afternoon I received a reply to my letter of November 9, and as an enclosure to the reply I was furnished a copy of the requested document.

Because it is of such importance in connection with the reported Chief of Naval Operations' struggle for control of the Marine Corps, I ask unanimous consent that the letter and the directive provided me be incorporated in the RECORD at this point in my remarks for the information of the Senate.

There being no objection, the letter and the directive were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
Washington, November 16, 1954.

Hon. MIKE MANSFIELD,
United States Senate,
Washington, D. C.

DEAR SENATOR: The Secretary of Defense has referred to me your letter of November 9 in which you raise certain questions regarding the relationships between the Chief of Naval Operations and the Commandant of the Marine Corps.

Subsequent to the receipt of your letter, other letters from interested persons, both within and outside the Congress, on the same subject have been directed to both the Secretary of Defense and to this Department. Furthermore, an interest in the matter has been expressed by representatives of the press.

In view of this wide interest, we have decided the interest of the services would be best served if the administrative action of the Secretary of the Navy were released for the benefit of the other persons who have inquired on the same subject, and also be issued to representatives of the press.

Probably your interest stems from the fact that within the Department of the Navy we are in the process of rewriting General Order No. 5 to reflect the recommendations of the Committee on Organization of the Department of the Navy, which was dated April 16, 1954, and approved by the Secretary of the Navy and the Secretary of Defense. A final draft of this general order has not as yet been completed, and discussions concerning its format and language are still in process.

As you have noted in your letter, the report of the Committee on Organization of the Department of the Navy referred to an administrative action by the Secretary of the Navy, and you have requested a copy of this document. This letter, dated April 7, 1954, is attached hereto for your information.

I trust that if there are further questions, you will not hesitate to call upon me.

Sincerely yours,

THOMAS S. GATES, Jr.,
Acting Secretary of the Navy.

APRIL 7, 1954.

Memorandum from: Secretary of the Navy.
To: Chief of Naval Operations.
Commandant of the Marine Corps.
Subject: Relationships between the United States Navy and United States Marine Corps.

1. General Order No. 5 establishes the basic relationship between the Chief of Naval Operations and the Commandant of the Marine Corps.

2. In further amplification of this order, the following statements of policy are applicable:

(a) The Marine Corps, while not a separate service in the sense of the Army, Navy, and Air Force, is a unique service and forms an integral part of the Department of the Navy. Because of its specialized mission and objectives, it is distinct from a board, bureau, or office of the Department, and yet is an inseparable part of a composite whole comprising the Naval Establishment.

(b) The Chief of Naval Operations is the senior military officer in the Naval Establishment. He commands the operating forces of the Navy. He is the naval executive to the Secretary of the Navy for the conduct of appropriate activities of the Naval Establishment.

(c) The responsibilities of the Chief of Naval Operations in his capacity as naval executive to the Secretary of the Navy shall attach insofar as the Marine Corps is concerned only to those areas assigned by the Secretary of the Navy.

(d) The Commandant of the Marine Corps commands the Marine Corps and is directly responsible to the Secretary of the Navy for its administration, discipline, internal organization, unit training, requirements, efficiency and readiness, and for the total performance of the Marine Corps.

(e) The Commandant of the Marine Corps when performing the functions set out in paragraph (d) is not a part of the permanent command structure of the Chief of Naval Operations. However, there must be a close cooperative relationship between the Chief of Naval Operations as the senior military officer and the Commandant of the Marine Corps who has command responsibility over that organization.

(f) The Commandant of the Marine Corps has an additional direct responsibility to the Chief of Naval Operations for the readiness and performance of those elements of the operating forces of the Marine Corps assigned to the operating forces of the Navy. Such Marine Corps forces, when so assigned, are under the command of the Chief of Naval Operations.

(g) Any administrative instructions in conflict with the foregoing will be revised to conform to this policy.

THOMAS S. GATES, Jr.,
Acting.

Mr. MANSFIELD. Mr. President, the directive is reassuring. If it is obeyed—and I do not see why it should not be obeyed—the proper status and functions will be accorded the Marine Corps and its Commandant.

After reading this document I can better appreciate the reluctance of the admirals to have it made public, for this directive of April 7, 1954, is a pointed rebuke to any claims that might be advanced for giving the Chief of Naval Operations any direct or indirect command authority over the Marine Corps.

But despite the Andersen letter of April 7, 1954, the admirals did make such claims. They attempted to procure the promulgation of a general order in terms which would literally deprive the Commandant of the Marine Corps of command of all elements of the Marine Corps except a handful of marines on duty at Marine headquarters.

I know the Senate will join me in commending Deputy Secretary of Defense Andersen, who as Secretary of the Navy was primarily responsible for the document containing such a well considered and carefully balanced statement of the applicable law.

I am of the opinion that the Andersen letter, as it is called, will some day rank as one of the key documents in the history of the Department of the Navy.

While applauding the document itself, I regret and I am alarmed that the law was so vigorously challenged in the Department of the Navy as to require the Secretary to issue such an order, which in effect reaffirms existing law.

The directive of April 7 is noteworthy for the manner in which it reflects the law on the following important points:

First. It recognizes the Marine Corps as a military service within the Department of the Navy. It is of minor importance that this order calls the Marine Corps a unique rather than a separate service. The essential thing is that it is a military service which no one with good judgment would attempt to deny.

Second. The Chief of Naval Operations is not vested with any authority over the Marine Corps or its Commandant. In fact, this portion of the directive is a pointed rejection of the old claim that Public Law 432, 80th Congress, granted such authority to the Chief of Naval Operations. When the admirals opposed the Marine Corps bill, the then Chief of Naval Operations based much of his opposition on the assertion that Public Law 432 charged him, as naval executive to the Secretary of the Navy, with supervision over the Marine Corps. In passing the Marine Corps bill, and by the specific passages in the committee reports, Congress directly rejected these claims as to such authority of the Chief of Naval Operations under Public Law 432. Incidentally, it was clearly understood at the time that law was passed that it was of restricted application and pertained only to the Navy per se. Thus the only time the Chief of Naval Operations has any executive authority over any element of the Marine Corps is when he is specifically assigned such executive function for a specific matter by the Secretary of the Navy. Of course, under the law even this grant of executive authority could not abridge, even momentarily, the Marine Commandant's coequal status in the Joint Chiefs of Staff in matters of direct concern to the Marine Corps, nor could it be used as a device to interpose the Chief of Naval Operations between the Marine Commandant and the Secretary of the Navy. Thus, even on the rare occasions when this executive authority might be assigned the Chief of Naval Operations by the Secretary for a specific

and temporary purpose, such authority could even then be employed only in matters unrelated to the Commandant's Joint Chiefs of Staff function and status, and could not abridge the Commandant's direct relationship with the Secretary of the Navy.

Third. The position of the Commandant as a direct subordinate of the Secretary of the Navy is reaffirmed. The directive also recognizes the fact that the Commandant commands the Marine Corps and is responsible to the Secretary of the Navy—not the Chief of Naval Operations—for all the activities and total performance of the Marine Corps.

Fourth. The directive very properly emphasizes the close cooperation that must exist between the Chief of Naval Operations and the Marine Commandant, and the responsibility of the Marine Commandant for the readiness and performance of such marine units as may from time to time be temporarily assigned by the Secretary, or his superiors, to the operating forces of the Navy.

Fifth. Very significantly, this directive contains the order that "any administrative instructions in conflict with the foregoing will be revised to conform to this policy." This prescribes a commendable procedure, but apparently the order did not receive the proper attention after Mr. Andersen was relieved as Secretary of the Navy and moved up to Deputy Secretary of Defense. The question arises, of course, why this policy order issued April 7, 1954, has not been complied with in mid-November. Yet, such is the situation, for the letter from Acting Secretary of the Navy Gates states that General Order No. 5, which is apparently the first one to be considered, is still in the process of revision.

Any directive as clear as that of April 7, 1954, should, it seems, be complied with more expeditiously than is the case.

It is my hope that Mr. Andersen's clear and forceful directive will be quickly obeyed and as a result General Order No. 5 and other pertinent administrative instructions will be revised to reflect the legal position of the Marine Corps and its Commandant.

Had such a procedure been followed immediately after the issuance of that April 7 directive, I am certain the present unfortunate situation, in which the Chief of Naval Operations is apparently challenging the law by his reported effort to subordinate the Marine Corps to his control, rather than to the Secretary of the Navy, would never have developed. But since the situation has obviously been permitted to get out of hand, the entire matter can still be readily rectified by prompt obedience to the law and to the April 7 directive.

THE CASE OF JOHN PATON DAVIES, JR.

Mr. SMITH of New Jersey. Mr. President, on November 5, 1954, the Secretary of State, John Foster Dulles, announced that Mr. John Paton Davies, Jr., was being separated from the Foreign Service under the terms of Executive Order 10450, which order established the revised security program. I have been disturbed, as, I am sure, have many of my colleagues, by the torrent of editorials and syndicated columns criticizing the action of Secretary Dulles for reasons which are totally invalid.

Two errors seem particularly prevalent. The first is that Mr. Davies was somehow the victim of persecution by reason of his case being readjudicated under the terms of Executive Order 10450 despite a number of clearances under the earlier loyalty and security procedures. What was inadvertently or deliberately overlooked by the writers alleging persecution was that the terms of the Executive order itself required a review of all departmental and Foreign Service employees who had been investigated under the provisions of the old loyalty program.

The second, and even more insidious, error embraced by many writers was that Mr. Davies was being separated because his reports from China during the war were unpalatable to his chiefs in the Embassy and the Department in Washington. These writers thus twisted the Davies separation into a crude attempt at thought control.

It is true that Mr. Davies was separated from the Foreign Service for "lack of judgment, discretion, and reliability." However, as Secretary Dulles stated:

> The Board emphasized that it defended Mr. Davies' right to report as his conscience dictated, but found that he made known his dissents from established policy outside of privileged boundaries.

Thus, the deficiency of judgment forming the basis of this discharge was not principally that relating to the substance of his recommendations, but was, in fact, a lack of judgment and discretion in publicly espousing positions contrary to those already adopted by higher authority after due consideration of Mr. Davies' recommendations.

Secretary Dulles reviewed the Davics case after a security hearing board unanimously concluded that the continued employment of Mr. Davies was not clearly consistent with the interests of the national security. The Secretary's final determination was in accord with that unanimous decision.

In justice to the Secretary of State, I feel this explanation should be made.

I ask unanimous consent that the statement of Secretary Dulles of November 5 be printed in full in the body of the RECORD as a part of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

IN THE MATTER OF JOHN PATON DAVIES, JR.

(Statement by the Honorable John Foster Dulles, Secretary of State)

Executive Order 10450, issued pursuant to the act of August 26, 1950, became effective May 27, 1953. It deals with security requirements for Government employment. It establishes new criteria for continuing employment by the United States. These criteria related not only to loyalty, but also to reliability and trustworthiness. The new security program which this order establishes provides for various procedures culminating in a final determination by the head of the Department as to whether continued employment is clearly consistent with the interests of the national security. If not, the head of the Department is required to terminate the employment.

The Executive order requires that the cases of all departmental and foreign service employees who had been investigated under the provisions of the old loyalty program should be readjudicated under the new security standards established by the new Executive order. Accordingly, the case of John Paton Davies, Jr., previously so investigated, came on for readjudication.

On December 29, 1953, the Department's Office of Security concluded that Mr. Davies should be suspended and processed under the new security program.

On January 20, 1954, I directed that a statement of charges be submitted to Mr. Davies with a view to obtaining his sworn answers prior to my determination with reference to his possible suspension. This was done and Mr. Davies made his sworn answers.

I thereupon made a careful examination of the charges, the answers, and the information upon which the charges were based. I concluded that the matter required further inquiry. In this connection it might be noted that Mr. Davies had previously told me that he would welcome whatever further examination I deemed appropriate. Accordingly, on March 23, 1954, I asked that a Security Hearing Board be designated to consider the case. Mr. Davies voluntarily accepted the jurisdiction of the Security Hearing Board, and was not then suspended as would have been the normal procedure. I agreed to nonsuspension because I concluded that under the circumstances then prevailing the interests of the United States would not be prejudiced thereby.

On May 14, 1954, a Security Hearing Board of five persons, drawn from other agencies, was duly designated and convened for the purpose of conducting a hearing according to the statute, the Executive order above referred to and departmental regulations. After the board had studied the complete record, it held hearings throughout the latter part of June and the first half of July.

Throughout these proceedings Mr. Davies had the benefit of able counsel. Mr. Davies testified and called six witnesses who testified on his behalf. Five witnesses who had furnished derogatory information appeared and testified under oath; all but one did so in Mr. Davies' presence and subject to cross-examination by his counsel.

On August 30, after consideration of all the available information and the entire record in the case, the Security Hearing Board reached a unanimous decision. It was that the continued employment of Mr. Davies is not clearly consistent with the interests of the national security. The Board accordingly concluded that his employment in the Foreign Service of the United States ought to be terminated.

Following receipt of the Security Board's decision, I have, as required by the statute and the regulations, reviewed the entire case, and I now make my determination as to its disposition.

My determination accords with that of the Security Hearing Board; and is that the continued employment of Mr. Davies is not clearly consistent with the interests of the national security and it is advisable in such interests that his employment in the Foreign Service of the United States be terminated.

The reasons given by the Security Hearing Board for its decision are that Mr. Davies demonstrated a lack of judgment, discretion, and reliability. The board emphasized that it defended Mr. Davies' right to report as his conscience dictated, but found that he made known his dissents from established policy outside of privileged boundaries. The board also emphasized that its decision

stemmed preponderantly not from derogatory information supplied by others but from its own thorough and exhaustive analysis of Mr. Davies' known and admitted works and acts and, in connection therewith, his direct admissions and deficiencies as a witness before the board.

The board found that Mr. Davies' observation and evaluation of the facts, his policy recommendations, his attitude with respect to existing policy, and his disregard of proper forbearance and caution in making known his dissents outside privileged boundaries were not in accordance with the standard required of Foreign Service officers and show a definite lack of judgment, discretion, and reliability.

The Security Hearing Board did not find, nor do I find, that Mr. Davies was disloyal in the sense of having any communistic affinity or consciously aiding or abetting any alien elements hostile to the United States, or performing his duties or otherwise acting so as intentionally to serve the interests of another government in preference to the interests of the United States.

Under the present Executive order on security, it is not enough that an employee be of complete and unswerving loyalty. He must be reliable, trustworthy, of good conduct and character.

The members of the Security Hearing Board unanimously found that Mr. Davies' lack of judgment, discretion, and reliability raises a reasonable doubt that his continued employment in the Foreign Service of the United States is clearly consistent with the interests of national security.

This is a conclusion which I am also compelled to reach as a result of my review of the case.

I have reached my determination, as the law requires, on the basis of my own independent examination of the record. One of the facts of that record is the unanimous conclusion of the members of the Security Hearing Board that the personal demeanor of Mr. Davies as a witness before them, when he testified on his own behalf and was subject to examination, did not inspire confidence in his reliability and that he was frequently less than forthright in his response to questions. Conclusions thus arrived at by an impartial Security Hearing Board are, I believe, entitled to much weight, particularly when those conclusions are consistent with the written record which I have examined.

CANCELLATION OF CERTAIN CONTRACTS WITH FOREIGN INDUSTRIALS BECAUSE OF SUBSEQUENT DOMINATION BY COMMUNIST UNIONS

Mr. SYMINGTON. Mr. President, last March the distinguished senior Senator from New Hampshire [Mr. BRIDGES] and I went to Europe representing the Appropriations Committee and the Armed Forces Committee. The Senator from New Hampshire is a member of both committees.

Much attention was being given, in various European countries, to those business concerns with labor unions which were Communist infiltrated. In countries where we found that to be true we urged that no American business be given under the mutual-aid program or any other aid program to companies which manifested no interest in reducing Communist infiltration to a minimum.

With that premise, Mr. President, I now read a report prepared for the distinguished senior Senator from New Hampshire and myself by one of the able staff directors of the Senate Committee on Appropriations, Mr. Slattery:

Late in June of this year a contract was entered into with Officine Meccaniche Vittoria of Milan, Italy, for the manufacture of 3,191,571 rounds of 40-millimeter ammunition. The contract price was $18,800,000.

Although the shells were for delivery to the Army and Air Force, they were being purchased by the Navy under single service procurement responsibility. Subsequent to the execution of the contract, an election was held at the plant and the workers voted for a Communist-dominated labor union. On July 30, 1954, Ambassador Luce sent a cable recommending cancellation of the contract because of the election results in the plant. The recommendation was followed and the contract was canceled in August—cancellation charges amounting to about a half million dollars.

On May 6, 1954, the Bureau of Ships entered into a contract with Finmeccanica, a Government-owned or controlled Italian syndicate, for the construction of a destroyer escort, the contract price being $7,528,000. The Finmeccanica subcontracted the actual work to Piaggio of Palermo, Sicily. An election was held at the plant on September 25, 1954, in which the shop stewards voted for a Communist-dominated union. Ambassador Luce advised the Secretary of State of the results of the election and recommended that the contract be canceled, or the actual work shifted from Piaggio to a firm which she would approve. As the result of Ambassador Luce's recommendation, work has been stopped on the ship, and if the work is not transferred to a company which the Ambassador approves, the contract will be canceled.

Both Officine and Piaggio were plants which had been approved by the Country Team in Italy.

The Senator from New Hampshire and I found that in some cases employers as well as employees were not willing to work with our representatives in eliminating, as much as was possible, communism in the industrial plants to which this country was assigning orders for goods and equipment.

The senior Senator from New Hampshire and I are glad to make this report to the Senate, and commend the actions of Ambassador Luce in the matter herewith presented.

LIMITATIONS OF ATOMIC CANNON

Mr. ANDERSON. Mr. President, the Washington Star last Sunday carried an article headed "Army Leaders Now Admit Atomic Cannon Has Serious Limitations—Was Oversold." The article points out that the atomic cannon, the advent of which was announced in such glowing terms, is now found to be somewhat valueless. I shall ask unanimous consent to place this article in the RECORD today. In doing so, I desire to point out that I have been opposed to this project steadily for a year and a half on the basis that it was mostly for the purpose of an Army parade. An interesting aspect of this matter is not the original cost of the cannon, which, with its units, is approximately a million dollars, but is the fact that the cost of the projectile is still classified, which is a very wise decision on the part of the Army, I think, because it further shows the absurdity of the construction of this type of weapon. There has been recently designed a similar weapon for another branch of the service, and the possibilities are that each branch of the service will have its own type of atomic weapons.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARMY LEADERS NOW ADMIT ATOMIC CANNON HAS SERIOUS LIMITATIONS, WAS OVERSOLD

(By L. Edgar Prina)

Top Army leaders are apparently beginning to concede what critics of the highly publicized 280-millimeter atomic cannon have been saying for a long time: It has serious limitations and its value has been oversold.

Three weeks ago, answering a newspaperman's query, an Army spokesman disclosed that production of the huge 85-ton weapon had been halted because current requirements have been met. About 50 of the guns have been delivered at a unit cost of close to $1 million.

When the 280-millimeter was first displayed to the press 2 years ago, it was heralded in a shower of superlatives:

"Excellent cross-country (off-the-road) mobility," the then Chief of Staff, Gen. J. Lawton Collins, asserted.

"Able to give a kind of accurate and close support to ground troops never before available to them in the history of warfare," the Ordnance Corps stated proudly, adding that the gun had complete mobility.

Now, Maj. Gen. James M. Gavin, Army Operations Chief, puts the 280-millimeter into a more realistic perspective.

VULNERABLE, INEFFICIENT

General Gavin, interviewed at the Pentagon, conceded that the truck-towed, unarmored, atomic cannon was very vulnerable. What is more, it is inefficient in its use of nuclear material when compared with an A-bomb.

The general, who has a sound appreciation of the role of science in modern warfare, recalled the first years of the postwar period when the Army was outside looking in on the atomic business.

For a service which has always borne the great brunt of war casualties, this was not a happy situation. Then came the atomic-cannon proposal, and with it immediate opposition, chiefly from the Air Force. The Navy at first opposed development of the cannon, but it endorsed it and now is looking into the possibility of adapting atomic shells for use in big battleship guns.

General Gavin believes that the significant fact in the whole atomic-cannon matter is not the weapon itself.

"The most important thing about the 280-millimeter program, to my mind, is that it got the scientists interested in doing something for the Army in the atomic field," he said.

These views and those stated privately by other Army officers come in the wake of statements by critics who contend that the big gun may be knocked out easily and that its development was pushed because the Army wanted to get into the atomic act.

NO APOLOGIES

Defenders of the 280-millimeter program are not apologetic, despite the admitted drawbacks. They say that the United States Army, first to develop such a weapon, has been able to visualize, for the first time with some degree of confidence, an atomic battlefield. In addition, they point out that the gun has been important in the working out of new tactics and organization necessary for nuclear warfare.

The frank acknowledgment of the cannon's weaknesses comes when the Army apparently is on the threshold of getting delivery on a family of atomic artillery which will

be far less vulnerable than the 280's because they will be armored and self-propelled.

Under Secretary George Roderick said in a recent speech that the 280-millimeter was the first in a series of guns capable of delivering an atomic projectile. The Army now has armored and self-propelled artillery up to 210 millimeters (8 inches).

CRITICS' VIEW

Critics recognize that the gun can deliver a staggering explosive power once it is in firing position. But it takes at least 20 minutes to get it ready to fire, and 20 minutes to ready it for the road again. Secondly, they point out that the 280's lack of armor protection, its dependence on truck-tow, and its limited off-road mobility make it and its cache of atomic shells critically vulnerable to a variety of enemy attacks.

One expert insists that a 7-cent tommygun slug shot through the radiator of the tow truck could immobilize the monster. A gun that can't move is useless in a war of maneuver.

As to the complete mobility and excellent cross-country mobility claims for the cannon, critics recall that in the recent Battle Royal maneuvers in West Germany one of the slightly top-heavy 280's partially turned over in a ditch. It took 3 days to get it out. If this happened during a real battle, one general agreed, the gun would have to be written off.

That the cannon was conceived by road-minded designers is demonstrated by the fact that a battery of two 280's has a retinue of 9 vehicles in support. There is a mobile shop, 2 trucks for towing the generators which supply the power for the cannon's operations, 4 more for towing conventional trailers and 2 jeeps.

Because it takes so long to get into and out of firing position, some experts say the cannon will be unable to keep up with speedy armored thrusts against the enemy and will therefore be unable to maintain constant close support.

On the other hand, armored and self-propelled guns can do this because they can get up and go in the matter of seconds and are not nearly as vulnerable to scattered patches of resistance which the attack may have overrun.

The limbering-up time needed by the 280 cuts down its range, especially on the defense. The Army lists a 20-mile range for the cannon, but tacticians think that for practical purposes 10 miles beyond the front line would be its maximum battle range.

There are an estimated three dozen 280s now in the European theater. The Soviets have 20 or 22 armored divisions in East Germany alone.

In conclusion, the 280's critics recall that a special United States Army artillery board recommended after World War II that all artillery be caterpillar tracked, armored, and self-propelled.

The validity of this recommendation was borne out by the Korean war experience. Not one self-propelled gun was captured, but 400 truck-towed pieces were lost to the enemy in the first year.

RESOLUTION OF CENSURE

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the resolution (S. Res. 301) to censure the junior Senator from Wisconsin.

Mr. DIRKSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUSH in the chair). Is there objection to the request of the Senator from Minnesota? The Chair hears none, and it is so ordered.

THE CASE OF JOHN PATON DAVIES, JR.

Mr. WELKER. Mr. President, after paying my respects last evening to a great and distinguished gentleman Dr. Frederick Brown Harris, who will go down in history as one of the great religious leaders of America, I returned to my home at a late hour.

As one who is trying to present in a nonpartisan way a picture of the law as I view it, whether it be right or wrong, I have some observations to make.

Yesterday I told the judges, as Senators have been termed, that I did not know why human beings acted as they did, and I think it only fair to my distinguished friend, the distinguished Senator from New Mexico [Mr. CHAVEZ], to digress from my prepared remarks to say something about John Paton Davies, a man whom I never met and never knew.

Mr. President, I bring this matter up to show that remarks made by anyone can be misconstrued, and that many Americans object to this or that remark, whether the person concerned occupies a high or low position in the executive branch of the Government or elsewhere in public life.

John Paton Davies may have been a Communist; I do not know. He may have been disloyal. He may have been a security risk. But the American people, Mr. President, have very diverse opinions as to the reasons for which the Secretary of State suspended or discharged him. I do not have before me the verbatim remarks of the Secretary of State. I ask my colleagues, however, to keep in mind that I am not trying to praise a Communist or a disloyal person, because, as my colleagues know, since I have been a Senator, as a member of the Internal Security Subcommittee of the Committee on the Judiciary I have been one of those assigned the difficult job of trying to protect our country from subversive influences. However, I think it was unfortunate for the American people that they were not informed as to exactly why John Paton Davies was relieved of his position. As I remember the remarks made by the Secretary of State, they were to the effect that John Paton Davies had failed to exercise good judgment, and that he was not reliable.

Mr. President, what was done in this case is not the usual way we do things in America. Mr. Davies had served his country, whether honorably or disloyally, for about 23 consecutive years, and was approaching the time when he could retire. Why were not the American people told the real reason, if one existed, for suspending or discharging Mr. Davies? In the early hours of this morning I wondered, and I still wonder, if the reasons assigned for the discharge of Mr. Davies were the real reasons. I hope the question can be clarified. As I have said, I have no desire to protect anyone who might in any way be a participant in a plan for the destruction of this country. By like token, I hope I can impress my friends in the Senate that I am trying to be fair and honest to every person, regardless of his political affiliation.

RESOLUTION OF CENSURE

The Senate resumed the consideration of the resolution (S. Res. 301) to censure the junior Senator from Wisconsin.

Mr. WELKER. Mr. President, yesterday when I concluded my remarks on the censure resolution—and if my remarks were discursive or inadequate I apologize—I left the floor feeling, as I do now, since Senators are sitting as judges to try a fellow Member of the Senate in a censure proceeding, somewhat astounded that there were then present, as there are now, only a small number of the judges. I have never appeared before judges in a court of law when nearly two-thirds of the judges were absent because they had other things to do. I do not expect my remarks to go down in history as constituting a profound legal dissertation; I merely desire that they go into the RECORD as coming from one who is not representing Senator MCCARTHY or any other person. I am merely trying to give to the Senate of the United States, which is now sitting as the sole judge of the law and the facts, a statement which I believe to be honest and fair.

Mr. LANGER. Mr. President, will the Senator yield for the purpose of permitting me to suggest the absence of a quorum? I think the distinguished Senator from Idaho is correct. There ought to be more of the judges present, since the Senate is in session for the purpose of hearing the arguments on the pending resolution. I should like to suggest the absence of a quorum.

Mr. WELKER. I yield for that purpose, provided I do not thereby lose the floor.

Mr. LANGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Abel	Fulbright	Malone
Anderson	George	Mansfield
Barrett	Gillette	Martin
Bennett	Goldwater	McClellan
Bridges	Green	Monroney
Brown	Hayden	Mundt
Burke	Hendrickson	Murray
Bush	Hennings	Neely
Byrd	Hickenlooper	Pastore
Capehart	Hill	Payne
Carlson	Holland	Potter
Case	Hruska	Purtell
Chavez	Humphrey	Robertson
Clements	Ives	Russell
Cooper	Jackson	Saltonstall
Cotton	Jenner	Schoeppel
Crippa	Johnson, Colo.	Smith, Maine
Daniel, S. C.	Johnson, Tex.	Smith, N. J.
Daniel, Tex.	Johnston, S. C.	Sparkman
Dirksen	Kefauver	Stennis
Douglas	Kilgore	Symington
Duff	Knowland	Thye
Dworshak	Kuchel	Watkins
Eastland	Langer	Welker
Ellender	Lehman	Wiley
Ervin	Lennon	Williams
Ferguson	Long	Young
Flanders	Magnuson	

The PRESIDING OFFICER. A quorum is present.

LEAVES OF ABSENCE

Mr. CAPEHART. Mr. President, will the Senator from Idaho yield to me?

Mr. WELKER. I am glad to yield.

Mr. CAPEHART. I ask unanimous consent to be absent from the Senate on official business, beginning next Friday morning, in order to attend, at the request of the President and the Secretary of State, the Latin American Economic Conference at Rio de Janeiro.

The PRESIDING OFFICER. Without objection, consent is granted.

Mr. WILEY. Mr. President, if the Senator from Idaho will yield to me at this time, I now make a similar request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LANGER. Mr. President, reserving the right to object, I am curious to know how many other requests of this sort will be made. Can the Senator from Wisconsin tell us?

Mr. WILEY. Yes. I may say that some time ago the President of the United States appointed three Senators to accompany Secretary Humphrey, who will attend the Rio de Janeiro conference, commencing next Monday. As chairman of the Foreign Relations Committee, I was appointed, together with the Senator from Florida [Mr. SMATHERS], who already has gone, and the Senator from Indiana [Mr. CAPEHART]. Request for leave has been made for him. We are the three who have been appointed. I make this announcement at this time, following the action of the Senate.

In short, Mr. President, let me state that on Monday, November 22, there will convene in Rio de Janeiro, Brazil, an important inter-American economic conference.

I have been asked by the President and by the Secretary of State to participate in the deliberations, as a member of the American delegation.

I have requested unanimous consent, therefore, to be excused from attending the sessions of the Senate for the duration of the adjourned session.

Mr. President, I send to the desk a statement which I ask unanimous consent to have printed at this point in the body of the CONGRESSIONAL RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR WILEY

I should like to state very briefly the unique circumstances of my position in relation to the matter now pending before the Senate.

As I have indicated, I have been asked as chairman of the Senate Foreign Relations Committee, to participate in the Rio Conference, along with my associates, the senior Senator from Indiana [Mr. CAPEHART], and the junior Senator from Florida [Mr. SMATHERS], who have previously received the permission of the Senate similarly to participate.

I should like to make it very clear that the fact that I plan to attend this conference does not affect in the slightest my position regarding the matter now before the Senate.

I have come to the conclusion that even were I not at the conference, that is, even were I present in Washington in the Senate session, the circumstances of the present controversy make it necessary that I refrain from casting a yea or nay vote, and that I vote "present" at the time this issue comes up for final vote.

Under the rules of the Senate, whenever a Senator feels himself personally and directly involved in a matter on which the Senate is voting, it is his right—nay, it is his obligation—to request of the Senate permission to be excused from voting on the pending issue.

This is such a case that falls squarely within the rule.

Alone among my 94 other colleagues in the Senate, I represent the same State and the same people as does the junior Senator from Wisconsin.

I have been nominated and elected by the same party, by the same constituency, and to a great extent by the same voters.

I believe that were this issue taken up in a court of law, any judge who found himself in my position would immediately disqualify himself from sitting as judge, and that any juror would similarly disqualify himself.

It has long been a part of the Anglo-Saxon tradition of parliamentary bodies that a legislator who could not in his own conscience cast an impartial, objective vote should not attempt to vote at all on a particular issue.

For almost 50 years, I have been a member of the bar of the State of Wisconsin. In all that time, I have adhered to one of the cardinal principles of the bar of my own and of every other State in the Union—the imperative necessity of judge and jurors abstaining from participating in any case in which they are personally involved.

And for the reason set forth above, I would not vote were I present when the final vote comes; and the fact that I shall be absent does not actually alter the situation at all.

There is one final point that I should like to make.

A great many individuals who have written to me have asked about the Senate's and my own attitude toward the Communist problem as such.

I believe that the Communist menace must be combated with every means at our command at home and abroad. A look at my legislative record as ranking Republican of the Judiciary Committee, and of the Senate Foreign Relations Committee, will show that there has never been an issue before either of these two committees, or before the Senate involving the Communist problem, in which I personally have not sought to fulfill my role as a defender of the American heritage.

Mr. CAPEHART. Mr. President, I may say these appointments were discussed many, many months ago; and the Latin American conference was arranged for as long ago as 8 months, I believe. As the senior Senator from Wisconsin has stated, the senatorial delegates are himself, the Senator from Florida [Mr. SMATHERS], and myself; and we are going at the request of the President and the Secretary of State.

I may say that I have a pair with the able junior Senator from Florida [Mr. SMATHERS], in case a vote on the pending question occurs while we are at the Rio Conference.

Mr. LANGER. Can the Senator give us any indication as to how long the conference may last?

Mr. CAPEHART. I think the conference is scheduled for about 2 weeks, or perhaps longer. I do not think anyone knows exactly when it will end. It will begin on Monday. I do not think there is any specified time, but I expect the conference to last 2 weeks or longer.

The question arises as to whether or not we shall return in time to vote. I hope so—no; I do not hope so, either. I hope this matter will be settled sooner than that. If it is not, we shall be very happy to vote when we return. In the meantime, I have a pair with the able Senator from Florida [Mr. SMATHERS].

Mr. CASE. Mr. President, is there a request pending?

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from South Dakota?

Mr. WELKER. I am happy to yield.

Mr. CASE. Mr. President, I am not objecting, but I think Members of the Senate are entitled to say that we are not very happy about this situation. Members of the select committtee are certainly entitled to say that they are not very happy about a situation which involves Senators leaving the city on trips of one sort or another, whether requested to do so by the President of the United States or not.

The junior Senator from South Dakota might have pleaded that duties on the Armed Services Committee would require his taking a trip in September following the adjournment of the Senate. Certain matters were referred to the Subcommittee on Real Estate and Military Construction. The junior Senator from South Dakota had considerable responsibility in that connection. I arranged for some special meetings of the subcommittee for September. That arrangement was made before the censure resolution was referred to the select committee. I was among those happy, or unfortunate, Senators to be assigned to the select committee. The Subcommittee on Real Estate and Military Construction of the Committee on Armed Services had planned to make certain trips in order to carry out some of the responsibilities of the Armed Services Committee.

I think we are entitled to say, when other Senators surrender the right and duty which conceivably could be said to be theirs, to make trips to various parts of the world in order to look after affairs of the Government within the jurisdiction of their committees, that it does not make us feel very happy about having responded to what was said to be a call of duty to serve on the committee and to be present at this time to present the case, when some of us might be attending to some other committee duties.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. CASE. I do not have the floor.

The PRESIDING OFFICER. The Senator from Idaho [Mr. WELKER] has the floor.

Mr. WELKER. I am glad to yield to the Senator from South Dakota.

Mr. CASE. Mr. President, I conclude by expressing the hope that the departure of various Senators on various duty assignments throughout the world will not delay the operations of the Senate. Some of us have already devoted a great deal of time and effort to an unpleasant duty which has been assigned to us. I hope consideration of this case by the Senate will not result in the deliberations being extended beyond Thanksgiving, until Christmas, or God knows when.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. WELKER. I yield first to the distinguished senior Senator from Florida.

Mr. HOLLAND. Mr. President, I thank the distinguished Senator from Idaho.

I should like to say that, in the first place, I certainly would not want to see any meeting held, at which all the Latin-American nations were represented by duly constituted authority, on the important question of the economic affairs of this hemisphere, without there being adequate representation of the United States Senate.

I will say also to my distinguished friend from South Dakota that it seemed to me that the pairing of the distinguished Senator from Indiana [Mr. CAPEHART], who, being here today, can, of course, speak for himself—and my own distinguished colleague, the junior Senator from Florida [Mr. SMATHERS] was peculiarly appropriate, because each of them had announced in the public press what his position would be on the question now pending. Their positions happened to be opposite, which made it extremely easy to effectuate the pair which was announced.

So far as the Senator from Florida is concerned, he does not think there is any disposition on the part of any Senator to evade or escape his duty here. The fact that the announcements were made when they were made showed very clearly that there was no such attitude on the part of either of those Senators. Likewise, as to the distinguished senior Senator from Wisconsin, the chairman of the Senate Committee on Foreign Relations, there is every reason why his presence at the Rio conference should be regarded as not only appropriate, but even as highly necessary.

The Senator from Florida wishes to say in closing that he thinks there is a very important service to be rendered to this Nation and to the cause of solidarity in this hemisphere by having the Senate well represented at the Rio conference. I am glad that we are to be so well represented by these three distinguished Senators.

Mr. CAPEHART. Mr. President, will the Senator from Idaho yield?

Mr. WELKER. I yield to the Senator from Indiana.

Mr. CAPEHART. I regret that the able Senator from South Dakota did not mention this point when a request similar to the request I made a moment ago was made on behalf of our friends on the other side of the aisle. I refer to the Senator from Florida [Mr. SMATHERS] and the Senator from Tennessee [Mr. GORE]. The Senator from Florida is to attend the meeting in Rio, and the Senator from Tennessee is to attend a meeting in Europe.

I dislike being pointed out, particularly in view of the fact that I am a Republican, on the same side of the aisle as the able Senator from South Dakota, in view of the fact that similar requests have heretofore been made on behalf of other Senators, and the Senator from South Dakota made no objection. Had objection been made a week or 10 days ago, when this question first arose, we might have arranged to remain here. I do not like to be pointed out, particularly by one of my own colleagues, when he did not see fit to criticize similar requests made on behalf of Senators on the other side of the aisle. That is the first point.

The second point is that I doubt if there has ever been a time in the history of the Senate—at least since I have been a Member of it—when some Senator or Senators were not busy somewhere else attending conferences at the request of the Government—and rightfully so.

I do not see that the McCarthy matter is any more important than many other questions which arise from time to time.

Mr. CASE. Perhaps it is less important.

Mr. CAPEHART. Perhaps it is less important. In the Senate there is hardly ever a time when some Senators are not absent. The able Senator from Ohio [Mr. BRICKER] left on Tuesday, by unanimous consent, to represent the Joint Committee on Atomic Energy on a trip around the world. Does the able Senator from South Dakota object to that?

Mr. CASE. If I may respond, the Senator from South Dakota did not happen to hear the request on behalf of the Senator from Ohio or the request on behalf of the Senator from Tennessee [Mr. GORE] and other Senators.

Mr. President, will the Senator from Idaho yield to me for an additional observation?

Mr. WELKER. I am happy to yield, with the continuing understanding that I shall not lose my right to the floor.

Mr. CASE. The able Senator from Pennsylvania [Mr. MARTIN], who is now seated to my left, is chairman of the Committee on Public Works. I am chairman of the Subcommittee on Public Roads of that committee. Both of us were scheduled to appear in Seattle, at the annual convention of the American Association of State Highway Officials, on the 8th and 9th of November. We were on the program. We had been advertised to speak on behalf of the Senate.

The distinguished majority leader [Mr. KNOWLAND] was interviewed by the Senator from Pennsylvania, and the Senator from Pennsylvania called me by telephone. We conferred in advance on this subject. The Senator from Pennsylvania advised me that the distinguished Senator from California, the majority leader, suggested that we ought not to go to Seattle, so we canceled our reservations and did not go. We came here.

In September, in order to carry out the duties assigned to me by the Senate, I canceled a trip to San Francisco. I was scheduled to participate in a forum before the American Mining Congress in September, but it happened to come during the time when the select committee was in session. We did not conclude our task in time, and I canceled that appointment. I was scheduled to speak at the American Mining Congress at San Francisco.

As I have stated, the Senator from Pennsylvania and I canceled our plans to go to Seattle, although we were advertised to be there. I wish to reiterate what I said earlier, that it does not make us very happy now to see Senators asking permission to go on trips of various kinds. My remarks were not directed particularly at the request of the Senator from Indiana. They apply to all such requests. It so happened that I did not hear the earlier requests.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. WELKER. Mr. President, other Senators are on their feet, but inasmuch as the question was first raised with the Senator from Indiana, I yield to him.

Mr. CAPEHART. It is unfortunate that the Senate is in special session at this time. I do not know why the pending business could not have been or should not have been considered in a regular session of the Senate. Frankly, I have never quite understood why the Senate was called into special session to consider the pending business. The other day I made the suggestion that in my best judgment we should recess until the regular session of Congress next year and then handle the McCarthy matter. I do not know why the McCarthy matter is so important that it must be handled in a special session.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. CAPEHART. I do not have the floor.

Mr. ANDERSON. We have a general understanding about the floor. Certainly none of us wishes to take the Senator from Idaho off the floor.

Mr. CAPEHART. I understand.

Mr. ANDERSON. Did not the Senate adopt a resolution which provided that the Senate should return in special session for the consideration of the pending business?

Mr. CAPEHART. There is no question that the Senate left the matter in the good judgment of the leaders.

Mr. KNOWLAND. If I may join in the discussion, the resolution itself states—and it was known to the Senate at the time it adopted the resolution—that the matter would have to be disposed of prior to adjournment sine die of the 83d Congress, which means, under the concurrent resolution, that the Senate is required to adjourn sine die not later than December 24, 1954.

I may say that the Senate makes its own rules. It is true that the Senate adopted the resolution, but it could adopt another resolution at this time. The Senate could change or amend the resolution at any time it saw fit to do so. I have never believed that the matter before us is so serious that it was necessary to handle it in a special session of the Senate. I do not know why it could not be handled in the regular session at the beginning of next year.

Mr. STENNIS. Mr. President, will the Senator yield at that point?

Mr. WELKER. I am glad to yield to the Senator from Mississippi.

Mr. STENNIS. I agree that there is need for the attendance of the Senator from Indiana [Mr. CAPEHART] and the

Senator from Florida [Mr. SMATHERS] at the Rio conference. I know that the Senator from Tennessee [Mr. GORE] had plans to go to Europe which antedated the adoption of the resolution. I also agree that it is proper for the senior Senator from Wisconsin [Mr. WILEY] to be away on an assignment made and accepted prior to this session.

The question is not whether the select committee remained in session for a few weeks, or whether a Senator has waived a trip of importance somewhere, or whether the chairman of a committee desires to leave on a trip abroad on business of the Senate.

It is my belief that we have now reached such a point in the discussion of Senate Resolution 301 that I respectfully submit it is the duty of every Senator to be in the Chamber, giving the matter his very careful attention, and then, after reasonable debate, helping to bring it to a decision and a vote that will dispose of the subject.

Without any reference to any service any Senator may have rendered, I very respectfully call to the attention of the Senate the fact that I shall be compelled hereafter to object to any request for leave of absence, unless the request is based on compelling reasons. I emphasize again that I agree there is need for the Senator from Indiana [Mr. CAPEHART] and the Senator from Florida [Mr. SMATHERS] to attend the conference in Rio, and they have already reached a conclusion as to how they will vote.

Mr. CAPEHART. I have no particular desire to go to the conference. I was in Rio last year. It is no particular pleasure for me to fly 12,000 miles, with one stop. I shall go to the conference because the President and the Secretary of State asked me to go there, and because I believe I can make a contribution that will inure to the good of our Government. Unfortunately the conference was set long before there was any thought of a McCarthy censure proceeding or before anyone had any idea that there would be any. We cannot very well ask 16 or 18 countries to change the date of the conference.

I say again that I am not very important to the conference. I appreciate that fact. Furthermore, I have no objection at all to staying in Washington if Senators wish to call back the Senators who have already departed on other trips. I shall be very happy to remain here if the Senate wishes to recall the other Senators. Unfortunately, the Senator from Florida [Mr. SMATHERS] has already left for the Rio conference. I understand the Senator from Tennessee [Mr. GORE] has already left for Europe.

I assure the Senate that I am going to the conference at Rio only because of my responsibility in the matter and because I feel I can make a small contribution to the conference. I do not go for any other reason.

I may say that there has never been a time since I have been a Member of the Senate when Senators have not been asked to take part as official delegates in foreign conferences, regardless of what the Senate might be considering at the time. I cannot believe that the pending question is more important than anything the Senate has considered in the past 10 years during which I have been a Member of the Senate.

Mr. CHAVEZ. Mr. President, will the Senator yield?

Mr. WELKER. I am happy to yield.

Mr. CHAVEZ. I should like to say to the Senator from Indiana that I believe he should attend the Rio Conference. Of course the pending business is important. However, when are we going to reach a vote on it? No one knows. I believe the Senator from Indiana can make a great contribution to the conference. Conferences in Latin America are absolutely necessary. If we were ever at an all-time low ebb in our relations with Latin America, it is now.

After a representative of a European country comes to Washington, we read in the newspapers that his country has been granted $150 million or $200 million. After an official comes to Washington from Japan, we read in the newspapers and hear on the radio that he is going to say to his people that they have been granted $200 million or $250 million.

On the other hand, what do we do about Latin America, aside from holding conferences with those countries? I know of one country in Latin America which applied to the Export-Import Bank for a loan in order to buy American equipment. They could get the money in Europe and buy European equipment, but they wanted to buy from us. That application was submitted to the Export-Import Bank last February. To this day the bank has not had the decency even to turn down the application. I believe the Senator from Indiana could make a contribution by attending the conference at Rio, and at least could give them a little lipservice, if nothing else.

Mr. HOLLAND. Mr. President, will the Senator from Idaho yield for one additional observation?

Mr. WELKER. I am happy to yield to the Senator from Florida.

Mr. HOLLAND. I wish to join the distinguished Senator from New Mexico in stating that the distinguished chairman of the Committee on Banking and Currency will make a very real contribution to the Rio Conference. Recently by act of Congress we effected a very important reorganization of the Export-Import Bank. That organization has very important implications with reference to the situation in Latin America.

I do not know of anyone who can speak with greater authority on that subject than the distinguished Senator from Indiana. As to my own colleague [Mr. SMATHERS], I am equally happy that he is to attend the conference, not only because he is a member of the Committee on Interstate and Foreign Commerce of the Senate—and I am thinking now particularly of inter-American relations in aviation, but also because he represents in part the State which is closest geographically to Latin America, with which there are very frequent communications of every sort as between our Nation and our Latin American friends. I believe that my colleague will make a very worthwhile contribution to the Conference. I believe that both distinguished Senators can, by their presence, contribute greatly to the success of the Conference. Furthermore, I believe they could not do any more in the Senate if they were present and voting, because they have already indicated clearly, well in advance, what their votes would be, and those votes would be canceled one against the other through the process of pairing.

Mr. CARLSON. Mr. President, will the Senator from Idaho yield?

Mr. WELKER. I yield.

Mr. CARLSON. I had not intended to get into this discussion, but I think it should be stated that, with the junior Senator from Tennessee [Mr. GORE], I was selected by the State Department and the Finance Committee to represent the United States at an international trade agreement meeting at Geneva, Switzerland. I desired very much to go, because I think international trade is very important, affecting, as it does, this Nation and its economic growth and progress, but I felt it was my duty to remain here. I am delighted that the Senator from Tennessee is able to attend the Conference, but I did not feel that I should be absent from the Senate.

I agree with the distinguished Senator from South Dakota [Mr. CASE] that it is the duty of a Senator to be present to help resolve the issue to which some of us have very unwillingly given our attention during the past few months. I think it is in the interest of the Senate to reach an early decision so that some of us may be able to attend some of the meetings scheduled.

Mr. WELKER. Mr. President, reserving the right to object, I ask unanimous consent that——

The PRESIDING OFFICER. The Chair does not understand the Senator's reservation. There is nothing before the Senate at this moment.

Mr. WELKER. I thought a unanimous-consent request was pending.

The PRESIDING OFFICER. That request has been granted.

Mr. KNOWLAND. Mr. President, I should like to ask the Senator from Idaho if, prior to beginning his speech this afternoon, he would be willing to yield to me for the purpose of moving a recess until 2 o'clock this afternoon.

Mr. WELKER. Mr. President, will the Senator abide with me for a couple of minutes so that I may place certain impressions in the RECORD?

Mr. KNOWLAND. Certainly.

Mr. WELKER. Mr. President, at the beginning of the session I interrogated the distinguished majority leader as to whether he had knowledge of the Executive having invited Members of the Senate to what I think I called junkets throughout the world. I am sorry for the use of the word "junkets"; I now understand them to be conferences.

Yesterday, the distinguished chairman of the select committee stated to all the world that every Senator was a judge of the law and the facts. If that be true, what kind of justice would it possibly be for one or more Senators to go around the world showing disrespect, if you please, to the members of the select committee who have worked so hard and also to those who feel that the junior Senator from Wisconsin should have his day in court in the United States Senate?

I am sorry I did not hear the unanimous-consent request made, because I would have asked my friend to let me have a few minutes to think and to deliberate about the matter. How, in heaven's name, can we justify to the people of America, not only to the friends of the select committee but to the friends of the Senator who stands before the bar of the Senate, the fact that we have permitted Senators to go to foreign lands? It is true that they are to participate in important conferences; but what is more important to this Nation than preserving the dignity and the honor of the United States Senate?

Perhaps my mind might be changed since the distinguished Senator from Utah [Mr. WATKINS] stated yesterday that each and every one of us should be the sole judges of the law and of the facts.

I may say, Mr. President, that I agree wholeheartedly with the observations made by the distinguished junior Senator from South Dakota [Mr. CASE], the distinguished junior Senator from Kansas [Mr. CARLSON], and the distinguished junior Senator from Mississippi [Mr. STENNIS. Like all the other Senators, I have some legislative work to do. Since the date of adjournment I have been ordered, Mr. President, to take a task force of the Internal Security Subcommittee of the Judiciary Committee to the States of Texas, California, New Mexico, Arizona, Utah, Idaho, Washington, and Oregon—for what purpose? To investigate and report to the Senate and to the American people on the wide-open infiltration of the Mexican border by those who would destroy our country. I am here to see whether we can get through with this distasteful task, so that I may then return to legislative work. But certainly, from the bottom of my heart, I do not approve of Senators leaving this body when there is such an important issue before it. After all, we had due notice of this special Senate session. Every Member of this body received his mileage to come here for one specific purpose. No matter how important conferences with representatives of foreign governments may be, certainly they could be deferred. I am not unmindful, Mr. President, of the dangerous conditions which exist in the world today, but I cannot see why a Senator should be called upon to leave such an important session as is this session.

It was said by my distinguished friend from Indiana [Mr. CAPEHART]—I do not know whether this is his exact language, but it is my impression of it—that this session did not appear to him to be so important. But I believe firmly that had the resolution been directed at the great Senator from Indiana he might very well change his mind as to the importance of the issue—the judicial determination of a legislative question, which has nothing to do with a request, invitation, or direction of the Executive.

Mr. CAPEHART. Mr. President, will the Senator from Idaho yield?

Mr. WELKER. I yield.

Mr. CAPEHART. Mr. President, I say with a big smile on my face and with good nature that there has been no greater advocate of voting against censure than I am. I have given my reasons why I am opposed to it. I hope the able Senator from Idaho and other Senators will not cause the Senator from Indiana to come to the conclusion that he has made a mistake.

Mr. WELKER. I do not care what decision the senior Senator from Indiana may make. He must be guided by his own best judgment. This is, as has been stated, a judicial determination, one involving a censure resolution, the fourth time in American history that such a thing has occurred. If the Senator from Indiana desires to change his vote, I know him well enough to feel sure that he will base it upon fundamental grounds of Anglo-Saxon justice.

Mr. CAPEHART. The Senator seems to be criticizing me this morning because I am trying to follow my best judgment. The Senate ordered the Banking and Currency Committee to make a study of the Export-Import Bank and world trade. I accompanied the committee to Latin America last year. We were gone 55 days, we held 300 conferences, and I made a great number of speeches. We wrote an 800-page report, and we have accumulated considerable knowledge on the particular subject. The meeting at Rio de Janeiro was arranged months ago, and I was asked to accompany the Secretary of the Treasury and the Secretary of State many weeks before the McCarthy proceedings arose. I made it a point, before I decided to accept the invitation, to make certain that I had a pair with the able Senator from Florida [Mr. SMATHERS]. Should he be present, he would vote for censure. If I were present I would vote against censure. I desire to make that point. I should not leave here except on that basis. The Senator from Florida agreed to it; I agreed to it. Since it was felt that I had had some experience with matters to be considered at the Rio conference, I thought I should accept the assignment.

I tried to say earlier that there simply can never be a time in the Senate when there is not other business for Senators to attend to, besides being on the floor. At least, that has been the case in the 10 years I have been a Member of the Senate.

When I said that I did not think the censure resolution was important, I meant that it was not so important, in my mind, that if there were other official business elsewhere, and two Senators could attend to it and make a contribution, and could arrange a pair with each other, they could not leave the floor of the Senate. That was my point. That is my point today.

I do not mind telling the Senate that I have no desire to go. It will not be a junket, so far as I am concerned. I can assure Senators of that. I have been there before. I have been almost everywhere in the world. I have sufficient funds with which to pay my own expenses at any time I wish to go to any place in the world. So, whenever I shall go anywhere, representing the Government, I shall go prepared to work, and I shall always work.

Frankly, I simply do not appreciate being singled out in the Senate today, when the able Senator from Ohio [Mr. BRICKER], representing the Joint Committee on Atomic Energy, has left, and properly so; and when the able junior Senator from Florida [Mr. SMATHERS] and the able junior Senator from Tennessee [Mr. GORE] were given unanimous consent to be absent on official business.

I, therefore, have asked unanimous consent to be absent, and I have given my reasons for doing so.

I am for Senator MCCARTHY. I think the world knows it. I have so stated. Yet I am criticized.

Mr. President, that is all I have to say.

Mr. WELKER. Mr. President, will the distinguished Senator from Indiana remain in the Chamber for a moment?

Mr. CAPEHART. I shall be glad to do so.

Mr. WELKER. If I have criticized my friend the distinguished senior Senator from Indiana, I humbly apologize. I have no better friend in this body. I know him to be a great American.

As the Presiding Officer knows, I have been trying to discuss the legal aspects of the resolution of censure without rancor, bitterness, or unfairness toward the select committee, and in fairness to Senators who are not in favor of censuring Senator MCCARTHY.

Since this is a case, as the chairman of the select committee stated yesterday, in which Senators are the judges of the facts and the law, it might be that when all the testimony has been offered, and all the arguments have been concluded, the Senators who have gone to foreign lands might well have changed their minds and opinions.

But, Mr. President, I beg of my friend the distinguished senior Senator from Indiana not to think that I would have criticized him.

Mr. CAPEHART. I appreciate the Senator's statement. These remarks have been made in all good humor.

ANNOUNCEMENT OF VISIT TO THE SENATE BY THE VICE PRESIDENT OF INDIA

Mr. KNOWLAND. Mr. President, will the Senator from Idaho now yield?

Mr. WELKER. I yield.

Mr. KNOWLAND. Mr. President, before moving a recess, I desire to make an announcement.

At 2 o'clock the Vice President of India will be present in the Chamber. The President of the Senate has informed me that at that time the Vice President of India will present to the Senate a new gavel. I hope that all Senators, on both sides of the aisle, may be able to return to the Senate Chamber promptly at 2 o'clock.

After a brief period of time, in which to permit the Vice President of India to visit with the Senate, the debate on the censure resolution will be resumed, with the understanding that the Senator from Idaho will continue to hold the floor.

Mr. WELKER. I thank the Senator from California.

RECESS UNTIL 2 O'CLOCK

Mr. KNOWLAND. Mr. President, I move that the Senate stand in recess until 2 o'clock this afternoon.

The motion was agreed to; and (at 12 o'clock and 54 minutes p. m.) the Senate took a recess until 2 o'clock p. m.

On the expiration of the recess, the Senate reassembled, and was called to order by the Vice President.

CALL OF THE ROLL

Mr. KNOWLAND. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Abel	Fulbright	Malone
Anderson	George	Mansfield
Barrett	Gillette	Martin
Bennett	Goldwater	McClellan
Bridges	Green	Monroney
Brown	Hayden	Mundt
Burke	Hendrickson	Murray
Bush	Hennings	Neely
Byrd	Hickenlooper	Pastore
Capehart	Hill	Payne
Carlson	Holland	Potter
Case	Hruska	Purtell
Chavez	Humphrey	Robertson
Clements	Ives	Russell
Cooper	Jackson	Saltonstall
Cotton	Jenner	Schoeppel
Crippa	Johnson, Colo.	Smith, Maine
Daniel, S. C.	Johnson, Tex.	Smith, N. J.
Daniel, Tex.	Johnston, S. C.	Sparkman
Dirksen	Kefauver	Stennis
Douglas	Kilgore	Symington
Duff	Knowland	Thye
Dworshak	Kuchel	Watkins
Eastland	Langer	Welker
Ellender	Lehman	Wiley
Ervin	Lennon	Williams
Ferguson	Long	Young
Flanders	Magnuson	

The VICE PRESIDENT. A quorum is present.

VISIT TO THE SENATE BY THE HONORABLE SARVEPALLI RADHAKRISHNAN, VICE PRESIDENT OF INDIA

The VICE PRESIDENT. The Chair has learned that a distinguished visitor, the Vice President of India, is in the Capitol. If the majority leader would like to make a motion that the Senate take a recess, such a motion will be entertained at this point.

Mr. KNOWLAND. Mr. President, I move that the Senate now stand in recess, subject to the call of the Chair, so that it may receive a message from the Vice President of India.

The VICE PRESIDENT. Before that motion is put, the Chair will appoint the majority leader and the minority leader to escort the Vice President of India from the office of the Vice President to the rostrum of the Senate.

The question now is on agreeing to the motion of the Senator from California.

The motion was agreed to; and (at 2 o'clock and 14 minutes p. m.) the Senate took a recess, subject to the call of the Chair.

The Senate being in recess, the Honorable Sarvepalli Radhakrishnan, Vice President of India, escorted by the committee appointed by the Vice President, consisting of Mr. KNOWLAND and Mr. JOHNSON of Texas, entered the Chamber and took the place assigned him on the rostrum in front of the Vice President's desk.

The members of the party accompanying the Vice President of India included the Honorable G. L. Mehta, the Ambassador of India to the United States; and the Honorable J. K. Atal, Minister of India to the United States, who were seated in the diplomatic gallery.

The VICE PRESIDENT. It is my pleasure to present to the Members of the Senate and to our guests in the galleries one of the world's great scholars, the presiding officer of our sister parliamentary body, the Council of States of India, the Vice President of India.

(Applause, Senators rising.)

Vice President RADHAKRISHNAN. Mr. Vice President and Members of the Senate, it is a great honor to have an opportunity to speak to the Members of this world-famous assembly. I appreciate it very much, and I am grateful to you for giving me this privilege.

As your Vice President just remarked, we have taken quite a number of things from your Constitution; and one of these is the obligation of the Vice President of India to preside over the Rājya Sabhā, or the Council of States, corresponding to your Senate. In fact, not only this one thing was taken by us from your Constitution, but quite a number of other things were taken by us from it. Among them is our statement of objectives—justice, freedom, equality, and fraternity. This statement echoes the ringing words of Jefferson in the Declaration of Independence—

> That all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

These are not mere phrases of propaganda, but they are products of a deep-felt faith which have inspired millions, both inside and outside the United States of America.

We, in India, became free in August 1947. We remember with gratitude the sympathy and the support we had from your Government and people during the years of our struggle for independence.

When power was handed over to us, many persons felt, and so stated, that we would not be able to hold together; that our civil service would break down; that with disorganization of the country, there would be no law and order, and no security of life and property. But these doubts have now been dispelled. We have been able to hold the country together. The civil service is working as efficiently as it could. Law and order prevail. There is not a part of the country in which a writ of the Government does not run; and travelers from other countries come to our country and travel from one place to another without any insecurity of life and property.

But those doubts merely indicate the colossal character of the task which faces our country. We have 360 million people, and on our voters' list we have 170 million, and in the last general election nearly 106 million went to the polls. That will give you a measure of the immensity of the task which is facing our country. We know that those who are interested in this experiment of democracy will give us their utmost sympathy and good will in our attempts to develop a great democracy in India.

We realize that political freedom is not an end in itself. It is a means to social equality and economic justice. In the last letter which Jefferson ever wrote, he said:

> The mass of mankind was not born with saddles on their backs, nor a favored few booted and spurred, ready to ride them legitimately by the grace of God.

The end of all governments is to give a status of social equality and provide economic opportunity for the common people. We, in our country, are now engaged in the enterprise of effecting a social and economic revolution. The word "revolution" need not scare us. It does not mean barricades and bloodshed. It means only speedy and drastic changes. We are interested not only in our objectives, but in our methods; not only in what we achieve, but in how we achieve. Through peaceful, constitutional processes we won our independence and integrated our country; and now we are striving to raise the material standards of our people. Even if these methods are slow and cumbrous, we hope they will be speedy and effective. Even if we meet defeat in our attempt to replace force by persuasion, the politics of power by the politics of brotherhood, we are convinced that the defeat will be only temporary, for goodness is rooted in the nature of things; kindness and love are as contagious as unkindness and hate.

Our past traditions and our recent history demonstrate that lasting results are achieved by peaceful methods. We must not cut the knots with the sword, but we must have the patience to untie them. In this atomic age we feel that it is foolish, if not dangerous, to fall short of patience and a sense of proportion.

No society is static; no law is unchanging; and no constitution is permanent. Given time and patience, radical changes may happen both in human nature and in systems of society which reflect human nature.

When my Government asked me to present this gavel to you, Mr. Vice President, I looked up some reference on the subject. The Freemason's Monitor of 1812 contains the following passage:

> The common gavel is an instrument made use of by operative masons to break off the corners of rough stones, the better to fit them for the builder's use; but we, as Free and Accepted Masons, are taught to make use of it for the more noble and glorious purpose of divesting our minds and consciences of all the vices.

The gavel is used by masons to chisel off round corners. To build a statue out of rough stone was the work of the gavel. Human nature is the raw material. It is as yet unfinished and incomplete. To integrate human nature, this gavel is being used. It is for the purpose of breeding and training good, disciplined men. That is the purpose of the gavel.

On behalf of the young democracy of India and of the Rājya Sabhā, I have the honor and the pleasure to present to you,

Mr. Vice President, this gavel, in the earnest hope that the legislators of the Senate will discuss all problems, national and international, with calmness and composure, with freedom from passion and prejudice, with the one supreme object of serving your great people and the human race. May this gavel serve as a symbol to strengthen the bonds between our two countries and to promote cooperation, understanding, and friendship between our two peoples.

(Applause, Senators rising.)

The VICE PRESIDENT. Mr. Vice President of India, Members of the Senate, and guests of the Senate, the Chair believes that our guests in the galleries, as well as Members of the Senate, will be interested in a little history concerning the two gavels which the occupant of the Chair now holds in his hands. The one on the right is the gavel which, according to tradition, has been used in the Senate since 1789. It is 165 years old. It is made of ivory capped with silver. The Chair does not know whether it was because the gavel was used more frequently than usual during the previous session of the Senate, or because the previous session of the Senate was perhaps a somewhat longer one. However, it began to come apart toward the close of the session.

As a result, the Sergeant at Arms of the Senate set about to find a new gavel. The problem was to find a piece of ivory large enough from which to carve a gavel similar to the one which the Senate had traditionally used. He was unable to find the proper sized piece of ivory through the usual commercial sources, and consequently he contacted the commercial attaché of the Embassy of the Government of India. From there on, however, the matter was out of his hands. They not only furnished the piece of ivory, but they furnished the gavel, which the Vice President of India has presented to the Senate today.

For the benefit of those who have been in the galleries in the past, and those who will be there in the future, we shall place the old gavel, which no longer can be used because it is coming apart, in a box which will be kept on the Senate rostrum while the Senate is in session. We shall use in its place the gavel of solid ivory which has been presented to us, it seems to me quite significantly and appropriately, by the largest democracy in the world, through the Vice President, the presiding officer of our sister parliamentary body in India.

The Chair is sure that Senators would like to hear responses from the majority leader and the minority leader to the remarks of the Vice President of India. [Applause.]

Mr. KNOWLAND. Mr. President, Mr. Vice President, I know that I speak for Members of the United States Senate when we extend to you a warm greeting. You come to us from one of the newest free governments in the world, and also the largest free government in the world, to this Republic of the United States of America. I know that you will extend to your colleagues over whom you preside in your country our appreciation of their thoughtfulness in sending us this gavel, which our Presiding Officers will use in the sessions of the Senate of the United States.

The people and the Government of the United States have an earnest desire to live in cordial friendship with the great nation of India. We have different problems. Our history has been somewhat different from that of India; yet we, too, sprang from a colonial period. We knew what it was to win our freedom, and we are proud of that freedom as we know your own great country is proud of its freedom. We have recognized our responsibilities in helping to maintain a free world of freemen. We know that your great country is no less interested in furthering the effort to maintain a free world of freemen.

This is not your first visit to our country. You are no stranger here. When you go back to India you will carry with you the friendship and affection of the people of our country for yourself as well as for your country. This affection is expressed in the unanimous voice of the Senate of the United States. [Applause.]

The VICE PRESIDENT. The Senator from Texas [Mr. JOHNSON] will respond for the minority.

Mr. JOHNSON of Texas. Mr. President, Mr. Vice President, and my colleagues in the Senate, it is a great pleasure to have you, Mr. Radhakrishnan, with us today. Your nation is rich in history, and has made numerous contributions to the culture of the world which are real and enduring. As we go down the road in this critical hour, searching for the peace and prosperity so necessary to free civilization, we trust that we can march together in a spirit of friendship and mutual trust and confidence. It is good to have you come among us. [Applause.]

The VICE PRESIDENT. The Chair is sure that Members of the Senate would like to greet the Vice President of India personally. Therefore the recess will continue until Members of the Senate have had that opportunity.

Thereupon Vice President Radhakrishnan took his place on the floor of the Senate, in front of the rostrum, and was greeted by Members of the Senate, after which he and the distinguished visitors and guests retired from the Chamber.

At the expiration of the recess, at 2 o'clock and 35 minutes p. m., the Senate reassembled, when called to order by the Presiding Officer (Mr. PAYNE in the chair).

CALL OF THE ROLL

Mr. KNOWLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Abel	Byrd	Daniel, S. C.
Anderson	Capehart	Daniel, Tex.
Barrett	Carlson	Dirksen
Bennett	Case	Douglas
Bridges	Chavez	Duff
Brown	Clements	Dworshak
Burke	Cooper	Eastland
Bush	Cotton	Ellender
Butler	Crippa	Ervin
Ferguson	Johnson, Tex.	Pastore
Flanders	Johnston, S. C.	Payne
Fulbright	Kefauver	Potter
George	Kilgore	Purtell
Gillette	Knowland	Robertson
Goldwater	Kuchel	Russell
Green	Langer	Saltonstall
Hayden	Lehman	Schoeppel
Hendrickson	Lennon	Smith, Maine
Hennings	Long	Smith, N. J.
Hickenlooper	Magnuson	Sparkman
Hill	Malone	Stennis
Holland	Mansfield	Symington
Hruska	Martin	Thye
Humphrey	McClellan	Watkins
Ives	Monroney	Welker
Jackson	Mundt	Wiley
Jenner	Murray	Williams
Johnson, Colo.	Neely	Young

The PRESIDING OFFICER. A quorum is present.

The Senator from Idaho has the floor.

CONFERENCE AT THE WHITE HOUSE BETWEEN THE PRESIDENT AND LEGISLATIVE LEADERS

Mr. KNOWLAND. Mr. President, before the Senator from Idaho proceeds, I ask unanimous consent to have printed in the body of the RECORD at this point a statement issued by the White House relative to the conference held at the White House between the President and the legislative leaders of both political parties.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

At the invitation of the President, legislative leaders of both parties and the chairmen and ranking members of three committees of both Houses of the Congress met this morning in the Cabinet Room at the White House.

The President opened the meeting by saying it was essential to have a continuing bipartisan approach to foreign affairs and national security matters that would represent the best interests of our Nation, regardless of which political party controlled the Congress.

The Secretary of State, as he has done many times in the past, presented a complete review of the international situation—this time bringing the legislative members up to date on foreign developments since the adjournment of the Congress last August. He discussed the participation by the United States in the Manila, London, and Paris conferences, the Trieste and Saar settlements, and the President's proposal to the United Nations for an "atoms for peace" pool. Against this background, the Secretary outlined the policies which would guide the future conduct of our international relations.

In this connection, the President and the Secretary urged the legislative leaders to give early consideration at the next regular session of the Congress to ratification of the Manila Pact and those sections of the Paris Agreements which would grant sovereignty to the Federal Republic of Germany and admit that nation to membership in the North Atlantic Treaty Organization. Such action by the Congress would greatly strengthen the defenses of the free world against Communist aggression.

Together with the Secretaries of State and Defense, the President discussed with the leaders the security and defense plans of our country, and the steps we have taken and propose to take to strengthen the armed forces of our friends and allies throughout the world.

A general discussion and exchange of views were held thereafter on these subjects.

RESOLUTION OF CENSURE

The Senate resumed the consideration of the resolution (S. Res. 301) to censure the junior Senator from Wisconsin.

Mr. WELKER. Mr. President, as I said yesterday, I was delighted to hear the chairman of the select committee say that the Members of the Senate were meeting as judges to try the issues of law and fact. I shall repeat, even though it almost breaks my heart to do so, that I am surprised, once again, to observe so many empty seats on both the Democratic and Republican sides of the aisle. I play no favorites in that respect.

In my opinion, we are here to perform a very important, solemn duty, one of an official nature. Yet I have never, during my experience in the practice of law, seen judges, whose solemn obligation, under oath, it is to try questions of law and fact, remove themselves from the presence of those who would attempt to enlighten the court and the defense, as well.

Mr. President, it means nothing to me if there are but a few Senators present to hear my remarks. Nevertheless, as I have said many times before, I think it is a sad day in the history of the Senate, yes, and of the country, when an issue of the magnitude of the one now before the Senate must be argued to an almost empty Chamber, even though my argument is without partisanship, rancor, or bitterness. I desired to say that for the RECORD. It will appear in the RECORD, and it will not be removed. The number of Senators who listen to my remarks means nothing to me. I am merely trying to help my colleagues in trying the issue which is theirs and mine to decide.

When I concluded my remarks yesterday, I was discussing the precedents which had been set heretofore. I stated that I did not know what led men to make some of the remarks they utter. Of course, all individuals are not the same, but in the almost 4 years in which I have served in this great body, which I love, I have heard many Members make statements for which I am certain they were sorry, statements which I feel sure were made in the heat of anger and passion.

At the risk of repetition, I wish to return to a subject to which I referred in my remarks yesterday, which strikes me as being fundamental in the argument being made before this judicial body, namely, the activity of another Senator from the State of Wisconsin. That Senator, very famous indeed, well known, and loved by a distinguished predecessor of mine for many years, the great and immortal William E. Borah, was Senator Robert M. La Follette, Sr. Robert M. La Follette, Sr., declined to appear before a subcommittee of the Committee on Privileges and Elections, under circumstances which, in some respects, bear a remarkable resemblance to the situation in the instant case. The similarity of the two cases is so amazing that I should like to speak in some detail about the former Senator from Wisconsin, Robert M. La Follette, Sr.

The subcommittee before which he refused to appear had been called to consider certain resolutions of the Minnesota Public Safety Commission looking toward his expulsion for disloyalty to the United States. That charge was predicated largely upon an allegedly pro-German speech he had delivered in 1917, a war year, a year which was indeed trying for our country.

Senator La Follette demanded that the subcommittee apprise him of the charges against him, namely, of the portions of his speech which allegedly were disloyal. The subcommittee chairman—and I suppose many of the senior Members of this body remember Senator Atlee Pomerene, of Ohio, by name, at least, even if they do not remember him in person—wrote Senator La Follette a letter, informing him that the subcommittee would not accord him that right. The chairman's letter went on to state:

> The subcommittee assumes that if the statements in the speech are well founded in fact you will be glad to so testify and to give your authority for them. If they are not, its members believe you will be eager to correct them and thereby aid the committee in arriving at the real facts. In any event they feel that the simplest and most direct way to conduct the inquiry is to invite you to appear before it as the one witness best qualified to verify the statements contained in your speech or to make such explanations as you may desire to make, and to give the committee the sources of your information.

That was from the chairman of the subcommittee to another Senator from Wisconsin, Senator Robert M. La Follette.

I continue to quote:

> The subcommittee renews its invitation of the 12th instant, for you to appear before it at the committee room of the Committee on Privileges and Elections at 10:30 a. m. on the 16th day of October 1917, and hopes you will accept it.

On October 16th, the subcommittee met at 10:30 in the committee room. Senator La Follette was present. The following highly significant exchange took place:

> The CHAIRMAN. Senator La Follette, it was the desire of the committee to interrogate you concerning some of the statements of fact in this speech——
>
> Senator LA FOLLETTE (after apologizing for arriving late). I appear here, Mr. Chairman, to submit to you in the form of a letter, addressed to you as chairman of this subcommittee, all the statement that I deem it proper or necessary for me to make at this point, and I now present that statement.
>
> I will say good morning to the committee.
>
> (Senator La Follette thereupon withdrew.)

The Senator's letter pointed out that twice before he had requested the subcommittee to advise him which statements of fact in his speech were now challenged. He stated that "common courtesy" required the subcommittee to furnish him with this information, that he believed in the accuracy of every statement in the speech and that he would prove the accuracy of every statement if he was afforded a fair opportunity to confront and cross-examine any and all persons denying the accuracy of such statements. He said that then, and not before, he would produce witnesses and evidence in his own defense.

The record shows, Mr. President, that Senator La Follette never produced 1 witness or 1 piece of evidence in his own behalf. He never appeared before the subcommittee to answer any of the charges against him, despite the fact that these charges reflected upon his personal honor and official conduct in a way that none of the charges before the so-called Gillette subcommittee could possibly reflect upon the personal honor and official conduct of the present junior Senator from Wisconsin. The record further shows, Mr. President, that no voice was ever raised on this floor to demand the censure of that Senator from Wisconsin for his failure to appear.

Mr. President, referring again to the same distinguished Senator from Wisconsin, the late Robert M. La Follette, Sr., he made a statement about a fellow Senator, Senator Frank B. Kellogg, of Minnesota. I now read what he said when he was directing his remarks against a fellow colleague:

> He [Senator Kellogg] is by nature a subservient, cringing creature, God almighty has given him a hump on his back—

By way of explanation, Kellogg did have a hump on his back—

> crouching, cringing, un-American, and unmanly.

I have never heard that a resolution of censorship was directed against Senator La Follette. How far are we going in this matter?

Do you not remember the vigorous debate of the last session, Mr. President? Those of us who advocated giving title to the submerged oil lands to the States and voted for such a bill, those of us who voted for the controversial Dixon-Yates contract to be entered into by the Atomic Energy Commission, were called what in the debate on the floor of the Senate? We were called everything in the book. We were told that we were stealing from the American people. We were "giveaway" Senators.

Mr. President, I have not seen any resolutions of censorship submitted against any one of the debaters who accused Senators of being thieves and of giving away the property of the people of the United States. Perhaps it was a sincere allegation, but yet it was a serious indictment against those of us who voted according to our consciences and as best we could, with what ability we had.

Since we have now, Mr. President, a splendid opportunity to set a precedent for the guidance of future sessions of the Senate, I strongly advocate that the United States Senate pay due respect to the good judgment of the electorates of the several States by establishing the rule that a Senator may not be punished for conduct concerning which the electorate had knowledge at the time such electorate sent him as their Senator to represent them in the United States Senate. That would be in accordance with the law I cited to the Senate yesterday; and I hope and pray that law will be read by every one of the judges in the Senate. If it is in error, I am sorry, but, if so, I should like to be corrected. For us to rule otherwise—as the select committee would have us do—would be an insult to the intelligence

and good judgment of the electorates of the various States, especially the good people of the sovereign State of Wisconsin who elected the Senator against whom the censure resolution has been directed, and against whom the report has been filed.

It would be more than that—it would be an invasion of the constitutional right of the States to choose their own Senators. For if a Senator can be censured for acts prior to his election, he can be expelled for the same causes.

If we desire to go along with the recommendation of the select committee, we can do so; but in that direction lie grave danger and uncertainty. "The condition of a citizen will be perilous indeed," to quote Thomas Jefferson.

The House Committee on the Judiciary submitted a report on this issue on April 24, 1914. I quote from volume 6 of Cannon's Precedents, a continuation of Hinds' Precedents, section 398, as follows:

> That it is within the power of the House to punish its Members for disorderly behavior and by two-thirds vote expel a Member.

I ask my colleagues to remember my argument yesterday about disorderly behavior. I want Senators, if they are sincere and honest, and I am sure every Senator is sincere and honest, to read what I said about the power to censure or expel, under the wording of article I, section 5, of the Constitution, which sets forth that it must be for disorderly behavior.

I read further from the Precedents:

> The two methods of punishment of a Member under the practices of the House are by expulsion and censure. * * *
>
> As a matter of sound policy, this extraordinary prerogative of the House, in our judgment, should be exercised only in extreme cases and always with great caution and after due circumspection, and should be invoked with greater caution where the acts complained of had become public previous to and were generally known at the time of the Member's election. To exercise such power in that instance the House might abuse its high prerogative, and in our opinion might exceed the just limitations of its constitutional authority, by seeking to substitute its own standards and ideals for the standards and ideals of the constituency of the Member who had deliberately chosen him to be their Representative. The effect of such a policy would tend not to preserve but to undermine and destroy representative government.

In conjunction with the above opinion, it is well to observe that the Senate itself accepted the junior Senator from Wisconsin at the time he was sworn in following his reelection in 1952. No objection was raised to his being sworn in as a Member. Since that time he was elected chairman of the Committee on Government Operations, and twice appropriations were made by the Senate for expenses of the subcommittee of which he is also chairman.

To consider charges of misconduct made before the election, before his second oath of office as a Senator, and before the voting of appropriations for his committees, is a poor and dangerous policy, to say the least. In fact, it is incredible that it should be done.

The select committee, on page 30 of its report, stated as follows:

> Any Senator has the right to question, criticize, differ from, or condemn an official action of the body of which he is a member, or of the constituent committees which are working arms of the Senate in proper language. But he has no right to impugn the motives of individual Senators responsible for official action, nor to reflect upon their personal character for what official action they took.

With the first sentence, Mr. President, I agree. However, I do not agree with the second sentence. I believe that a Senator does have the right to impugn the motives of individual Senators responsible for official action. I assert that it is not only the right, it is the duty of a Senator, when he is sincerely of that opinion, to call the attention of his electorate and of the country at large to any wrongful motives of Senators or other officials. If the select committee is right, then Senator Walsh was wrong in exposing the Teapot Dome scandal, and President Lincoln was wrong when he, as a Representative from Illinois, impugned the motives of President James K. Polk in starting the Mexican War. Please listen to these remarks of the then Representative from Illinois, A. Lincoln. I quote from the CONGRESSIONAL GLOBE, Appendix, 30th Congress, 1st session, pages 93 to 95:

> I am now through the whole of the President's evidence; and it is a singular fact, that if anyone should declare the President sent the Army into the midst of a settlement of Mexican people, who had never submitted by consent or by force to the authority of Texas or of the United States, and that there, and thereby, the first blood of the war was shed, there is not one word in all the President has said which would either admit or deny the declaration. In this strange omission chiefly consists the deception of the President's evidence—an omission which, it does seem to me, could scarcely have occurred but by design. My way of living leads me to be about the courts of justice; and there I have sometimes seen a good lawyer, struggling for his client's neck, in a desperate case, employing every artifice to work around, befog, and cover up with many words some position pressed upon him by the prosecution, which he dared not admit, and yet could not deny. Party bias may help to make it appear so; but, with all the allowance I can make for such bias, it still does appear to me that just such, and from just such necessity, is the President's struggles in this case.

Mr. President, again let me admonish my friends, the Members of the Senate, who are the judges in this case, that at that time the American Republic was engaged in war, and those remarks were made by a then Member of the House of Representatives, the great and immortal emancipator, Abraham Lincoln. They are harsh words about the highest official in the United States. Remember, Mr. President, as I have said before, that they were uttered at the time when the war with Mexico was in progress.

But, without reading the entire long speech of Representative A. Lincoln, let me read his two concluding paragraphs:

> As to the mode of terminating the war and securing peace, the President is equally wandering and indefinite. First, it is to be done by a more vigorous prosecution of the war in the vital parts of the enemy's country; and, after apparently talking himself tired on this point, the President drops down into a half-despairing tone, and tells us that "with a people distracted and divided by contending factions, and a government subject to constant changes, by successive revolutions, the continued success of our arms may fail to obtain a satisfactory peace." Then he suggests the propriety of wheedling the Mexican people to desert the councils of their own leaders, and, trusting in our protection, to set up a government from which we can secure a satisfactory peace, telling us, that "this may become the only mode of obtaining such a peace." But soon he falls into doubt of this too, and then drops back on to the already half-abandoned ground of "more vigorous prosecution." All this shows that the President is in nowise satisfied with his own positions. First, he takes up one, and, in attempting to argue us into it, he argues himself out of it; then seizes another, and goes through the same process; and then, confused at being able to think of nothing new, he snatches up the old one again, which he has some time before cast off. His mind, tasked beyond its power, is running hither and thither, like some tortured creature on a burning surface, finding no position on which it can settle down and be at ease.
>
> Again it is a singular omission in this message, that it nowhere intimates when the President expects the war to terminate. At its beginning, General Scott was, by this same President, driven into disfavor, if not disgrace, for intimating that peace could not be conquered in less than 3 or 4 months. But now, at the end of about 20 months, during which time our arms have given us the most splendid successes—every department, and every part, land and water, officers and privates, Regulars and volunteers, doing all that men could do, and hundreds of things which it had ever before been thought men could not do; after all this, this same President gives us a long message without showing us that, as to the end, he has himself even an imaginary conception. As I have before said, he knows not where he is. He is a bewildered, confounded, and miserably perplexed man. God grant he may be able to show there is not something about his conscience more painful than all his mental perplexity.

Was Representative A. Lincoln censured or otherwise punished for impugning the motives of the President? The records of the House fail to show that he was.

Mr. CASE. Mr. President, will the Senator from Idaho yield for a question?

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from South Dakota?

Mr. WELKER. I prefer not to yield now; if the Senator from South Dakota will permit me to do so, I wish to conclude my statement this afternoon.

Mr. CASE. My question will be a very brief one.

Mr. WELKER. Very well; I yield.

Mr. CASE. Was that speech delivered in the House of Representatives?

Mr. WELKER. It was.

Mr. CASE. Has the Senator from Idaho taken note of the fact that one of the categories under which the select committee eliminated some of the charges against Senator MCCARTHY was that if we were to propose any recommendations on those counts, that would unduly limit the free speech which is guaranteed Members of Congress for what they say on the floor?

Mr. WELKER. I would answer my distinguished friend and colleague from South Dakota by saying that I believe I have taken note of every one of the select committee's orders and moves. I believe the Senator from South Dakota will admit that, as a matter of law, I differ with the conclusions reached by the select committee.

Mr. CASE. The Senator may disagree in certain respects; but he is not in disagreement with the select committee so far as concerns basing censure upon any statement by any Member of the Senate, including the junior Senator from Wisconsin, in which his personal opinion is voiced on the floor of the Senate.

Mr. WELKER. Very well. I believe that without a doubt the select committee and the judges seated here would conclude that it all runs together. As a matter of fact—and I hope I will not be interrupted further—it was suggested yesterday on the floor of the Senate that a new allegation be made against the junior Senator from Wisconsin, affecting freedom of speech upon the floor of the United States Senate. How can the Senator justify that?

Mr. CASE. Does the Senator wish me to answer that question?

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from South Dakota?

Mr. WELKER. I yield.

Mr. CASE. It is the feeling of the junior Senator from South Dakota that the remarks made upon the floor of the Senate, with respect to which there was some discussion yesterday, do not meet the two elements of the censure recommendation in count No. 1. Count No. 1 suggests that the two things, the failure to help the Subcommittee on Privileges and Elections in carrying out the duty imposed upon it, and, instead, the use of abusive language, tended to obstruct the constitutional processes of the Senate, that is, tended to prevent that committee from doing the job assigned to it.

Mr. WELKER. Mr. President, I am not talking about count No. 1. I am talking about count 3.

The PRESIDING OFFICER. The Senator from Idaho has the floor. He has yielded for a question.

Mr. CASE. I am saying, in response to a question, that the suggestion of the Senator from Utah [Mr. BENNETT] does not embrace the first element, and I do not think it is on all fours with count No. 1.

So far as I am concerned—and I speak only for myself—while I regret and deplore the language, I do not think that in order to be consistent, one must justify the proposal to introduce a new count. Personally I think it lacks one of the two elements involved in count No. 1, that is, the failure to cooperate. The junior Senator from Wisconsin cooperated with our committee.

Mr. WELKER. I certainly appreciate the remarks of my distinguished colleague from South Dakota. I do not wish to go further with respect to the proposed third count. I brought up that point merely to answer the allegations with respect to freedom of speech on the floor of the Senate.

As the Senator well knows, when a Senator gets out of bounds in the course of debate, he is supposed to be taken off the floor under Senate rule XIX, subsection 2.

Let me proceed. As I previously stated, the records of the House fail to show that Representative A. Lincoln was censured.

I am just informed that that speech was made in a committee hearing. I did not do the research on that point. I found the language, and I think, in accordance with sound reasoning, that the same penalty should apply with respect to language uttered in a committee hearing as with respect to language uttered on the floor of the House of Representatives. However, I wish to be factual. I shall conduct further research. Regardless of whether or not the language was used on the floor of the House of Representative or in a committee hearing, the same logic and reasoning should apply. Yet although Representative A. Lincoln was not subjected to a resolution of censure, we are asked to punish a Senator for questioning the motives of a committee which floundered for 2 years through resignations of staff lawyers and resignations of committee members who resigned so as not to be involved in questionable, political motives. I am exhibit A in that connection. It is absurd, Mr. President, and contrary to our whole theory of government, to claim that a Senator of the United States may not question the motives of a committee of the Senate or of its individual members.

The public at large and the press throughout the country question the motives of the various committees of Congress and the individual members thereof. Has a Senator of the United States, who is answerable to his electorate, a lesser right? Must he remain silent when in his honest opinion a committee is doing wrong? That is what the select committee would have us believe. If that committee is right the condition of a citizen is perilous indeed.

Mr. President, I come now to the Republican platform, adopted in 1952 at Chicago. The preamble—and this is true of the preamble which precedes every platform of every political party—contains sweet-sounding words. The closing portion thereof contains equally sweet-sounding words and promises.

I invite the attention of Senators to page 7 of that platform, where the following language is found:

> By the administration's appeasement of communism at home and abroad, it has permitted Communists and their fellow travelers to serve in many key agencies and to infiltrate our American life. When such infiltration became notorious through the revelations of Republicans in Congress, the executive department stubbornly refused to deal with it openly and vigorously.

To whom is reference made? The Republican Party, to which the junior Senator from Wisconsin belongs, stated that the executive department stubbornly refused to deal with it openly and vigorously.

Quoting further from the platform:

> It raised the false cry of "red herring" and took other measures to block and discredit investigations.

That is the statement of the Republican Party, to which I and the junior Senator from Wisconsin belong, and to which every Senator on this side of the aisle belongs. I ask Senators, who are the judges in this case, to follow me very carefully.

> It denied files and information to Congress.

Let me repeat that statement, Mr. President.

> It denied files and information to Congress. It set up boards of its own to keep information secret and to deal lightly with security risks and persons of doubtful loyalty. It only undertook prosecution of the most notorious Communists after public opinion forced action.

Digressing again, let me say that I do not believe there is a group of men anywhere in the world who are more patriotic and finer Americans than the men who sit in this body, of which I am honored to be a Member.

I have read the excerpt from the Republican Party's platform of 1952 because the Republican Party, the party of the man against whom the censure resolution is directed, made some very strong accusations against the opposite political party. Whom did the Republican Party accuse? It accused the Executive.

If I am correct in my understanding, I believe the military establishment comes under the executive department. Certainly it is not in the judicial or legislative branches of the Government.

The platform continues:

> The result of these policies is needless sacrifice of American lives, a crushing cost in dollars for defense.

And so on. I shall not read all of it.

Did the junior Senator from Wisconsin have a reason for investigating the executive branch of the Government?

I assume it can be argued that it was perfectly all right for the Democrats to cover up what was in the files, to speak of a red herring, and so forth, but when the investigation got under way in a Republican Congress that was a horse of another color.

I appeal to the judges here to try this case upon the law and upon the facts.

I come now to the so-called very controversial—but in my opinion not so controversial as many believe—interrogation of Brigadier General Zwicker.

At the outset let me say that I respect all men in the uniform, who have dedicated their lives to their country, whether they be five-star generals or buck privates in the rear ranks. I believe they are to be commended. I do not see why there should be any difference in the cross-examination of a brigadier general and the cross-examination of a humble private in the Army.

CROSS-EXAMINATION OF GENERAL ZWICKER

The second cause for which the select committee would have us punish the Senator from Wisconsin is based upon what the committee calls reprehensible

conduct toward General Zwicker. That word "reprehensible" has an ominous sound. It carries implications of great evil—but it is defined simply as "culpable," "censurable," and "blamable." I am of the opinion that the select committee searched long and hard for a word of such impressive implication that merely meant censurable. I am constrained to believe that, consciously or unconsciously, the language used by the select committee throughout its report is far more defamatory than was necessary.

The cross-examination of General Zwicker provides the basis for this charge of reprehensible conduct. I have before me the entire cross-examination of General Zwicker. It was originally printed as part of the committee hearing, February 18, 1954, by the Investigations Subcommittee of the Committee on Government Operations on the subject of Communist Infiltration in the Army, pages 145–157. It is reprinted on pages 70–79 in the hearings on Senate Resolution 301.

Mr. President, I interrogated my friends on the select committee at rather great length. Many of them served as judges or as lawyers before they became Senators. No doubt Senators followed my interrogation of them. I asked them if they had ever seen 2 cross-examiners who cross-examined in exactly the same fashion, or any 2 lawyers who conducted themselves in exactly the same way, or any 2 witnesses who were alike in their deportment, or any 2 Senators who were exactly alike. What a wonderful world it would be if we could all be alike, emblems of innocence, and the finest people in the world, respected by everyone in all walks of life.

The select committee reported that it found General Zwicker was not intentionally irritating, evasive, or arrogant. The intent of the general is not an issue, the fact remains that if he was irritating, evasive, and arrogant, such an attitude would naturally cause a cross-examiner to become more persistent, more vigorous, and even short of temper. Any trial lawyer who has ever been in court knows that to be so. Any judge knows it. With respect to my distinguished friend, the senior Senator from Colorado [Mr. JOHNSON], I wish to say it is my opinion, and it always will be, that in a court of law he would be disqualified from service in a case like the one before the Senate. I have all the respect and admiration in the world for him, but in a court of justice, the least a defendant could do would be to file an affidavit of prejudice against him, and he would be asked to step down. In the quarter of a century in which I have practiced law I have never had occasion to file an affidavit of prejudice. All I had to do was to go to the court, present the issue, whether of law or of fact, discuss it, and say, "I believe you could not give us a fair and impartial trial."

Mr. President, the letter which I read into the RECORD a few days ago shows that prior to the hearings the senior Senator from Colorado was, in fact, prejudiced against General Zwicker and the Army. I invite the learned judges seated here before me to read that letter.

Then the Denver Post, allegedly quoting the distinguished Senator from Colorado, indicated a complete shift of the wind, and, in my opinion, it would have legally disqualified the Senator from Colorado from hearing either side of the controversy. In other words, it is my opinion that the proponents of Senate Resolution 301, and the junior Senator from Wisconsin, could well have disqualified the Senator from Colorado.

Let us be realistic. It is said that a person once having formed an opinion, once having expressed an opinion, especially in a large newspaper in a State in which he resides and to which he has brought honor and glory—a State in which he is campaigning for the highest office in the gift of the State—once having made such a public statement, may, in honesty and justice, remove from his mind the opinion he once had, set it aside, and clothe the defendant with the spotless white robes of innocence which the lowest kind of a criminal possesses in the eyes of the criminal law. Mr. President, that is simply impossible to do. I think, in all fairness, whether it be the junior Senator from Wisconsin, the Senator from Indiana [Mr. JENNER], the Senator from California [Mr. KNOWLAND], the Senator from Virginia [Mr. BYRD], or myself, the committee selected to make findings and recommendations should be composed of those who have never formed or expressed an opinion.

The Senator from Colorado, after having formed and given to the public press that opinion, released to the press a letter showing reasons why the defendant, as I may call the junior Senator from Wisconsin in this case, was hated and detested by everyone high in the councils on the opposite side of the aisle. He went on to say that the leaders had been distressed by certain speeches made by the junior Senator from Wisconsin.

That, to me, Mr. President, did not show an absence of the bias in the mind of the Senator from Colorado. It showed to me, at least, as one of the judges, that he had a bias.

I shall not discuss bias or prejudice any further. It has been discussed. It is a question of fact as well as of law for the jurors seated before me today.

I read into the RECORD the other day, Mr. President, the oath of an attorney and the oath of a judge, containing the principles which we so highly prize.

We all know that a cooperative witness is always handled graciously and politely, whereas one who is uncooperative, hostile, and evasive brings upon himself cross-examination of a severe and persistent nature. The hostile witness always knows what to expect, and even invites harsh cross-examination. Sometimes he even tantalizes the cross-examiner in order to cause him to lose his temper.

As I have said, Mr. President, no two cross-examiners are alike. In the practice of law there is nothing so difficult as that which is called the art of cross-examination. In fact, the counselors and advocates here present know that there are very few good cross-examiners. They are rare, indeed. If any Senators wish a little test of what it means to cross-examine hostile witnesses, let them ask the distinguished Senator who is seated at my right, the able Senator from Indiana [Mr. JENNER], who is chairman of the Subcommittee on Internal Security of the Committee on the Judiciary, or other Senators whose obligation it is to the American people, not to ourselves, to try to save this country from that ideology which would destroy our freedom and, first of all, destroy this august body. They have "taken it between the eyes" far more than they have ever "dished it out." Sometimes I am called a pretty rough individual, but I have at times had to put down the flaps when it came to certain cross-examination which it was my duty to pursue.

Mr. President, I now wish to invite attention to the record of the hearings, and I will at this time comment on the cross-examination of General Zwicker. I shall use the original hearing because the print is larger. Even though the paging differs, the testimony should not be hard to follow.

Last night or early this morning, when I could not sleep and was thinking of my duty to my country and to the Senate, I questioned how many Senators—these judges who are to try the law and the facts—had ever read the full report which was submitted to the select committee.

I now read from the testimony of Brig. Gen. Ralph W. Zwicker, United States Army, who was accompanied by Capt. W. J. Woodward, Medical Corps, United States Army.

The oath was administered, and General Zwicker said, "I do."

Reading further:

Before we start there is no need for a medical officer to be in here.

The CHAIRMAN. That is O. K.

Mr. COHN. A man who is his own lawyer has a fool for a client, and it is the same thing with a man who tries to be his own doctor.

General, could we have your full name?

General ZWICKER. Ralph W. Zwicker.

Mr. COHN. General, to see if we can save a little time here, isn't the situation this—by the way, you have been commanding officer at Kilmer since when?

General ZWICKER. Since the middle of July last year.

Mr. COHN. Has the Peress case come to your attention since that time? I am not asking questions about it.

General ZWICKER. Yes.

Mr. COHN. It has come to your attention and you have a familiarity with that case?

General ZWICKER. Yes.

Mr. COHN. Now, General, would you like to be able to tell us exactly what happened in that case, and what steps you took and others took down at Kilmer to take action against Peress a long time before action was finally forced by the committee?

General ZWICKER. That is a toughie.

It is my sincere opinion that at that point a cross-examiner would have wondered why such an answer was made—"that is a toughie." I believe a good cross-examiner would then have been alerted to something. I continue to read:

Mr. COHN. All I am asking you now is if you could, if you were at liberty to do so,

would you like to be in a position to tell us that story?

General ZWICKER. Well, may I say that if I were in a position to do so, I would be perfectly glad to give the committee any information that they desired.

Mr. COHN. You certainly feel that that information would not reflect unfavorably on you; is that correct?

General ZWICKER. Definitely not.

Mr. COHN. And would not reflect unfavorably on a number of other people at Kilmer and the First Army?

General ZWICKER. Definitely not.

Mr. President, would it not be logical for a cross-examiner to ask upon whom it would reflect unfavorably?

Continuing, I read:

The CHAIRMAN. It would reflect unfavorably upon some of them, of course?

General ZWICKER. That I can't answer, sir. I don't know.

The CHAIRMAN. Well, you know that somebody has kept this man on, knowing he was a Communist, do you not?

General ZWICKER. No, sir.

The CHAIRMAN. You know that somebody has kept him on knowing that he has refused to tell whether he was a Communist, do you not?

General ZWICKER. I am afraid that would come under the category of the Executive order, Mr. Chairman.

I digress to ask my Democratic friends, How does that size up with the platform of the Republican convention, which I have heretofore read? I continue to quote from the record:

The CHAIRMAN. What?

General ZWICKER. I am afraid an answer to that question would come under the category of the Presidential Executive order.

The CHAIRMAN. You will be ordered to answer the question.

General ZWICKER. Would you repeat the question, please?

Mr. COHN. Read it to the general.

(The question referred to was read by the reporter.)

General ZWICKER. I respectfully decline to answer, Mr. Chairman, on the grounds of the directive, Presidential directive, which, in my interpretation, will not permit me to answer that question.

The CHAIRMAN. You know that somebody signed or authorized an honorable discharge for this man, knowing that he was a fifth-amendment Communist, do you not?

General ZWICKER. I know that an honorable discharge was signed for the man.

Mr. President, how many counselors present in the Chamber, sitting as judges of law and fact, would say that that answer was responsive? It was certainly not responsive. General Zwicker completely omitted the fact that Major Peress had been given an honorable discharge, knowing that he was a fifth-amendment Communist. I continue:

The CHAIRMAN. The day the honorable discharge was signed, were you aware of the fact that he had appeared before our committee?

General ZWICKER. I was.

The CHAIRMAN. And had refused to answer certain questions?

General ZWICKER. No, sir, not specifically on answering any questions. I knew that he had appeared before your committee.

I invite the attention of the judges before me—their excellencies—to page 152 of the hearings. I ask them to read the testimony on that page and see whether it is not contrary to the testimony given before the select committee. I resume reading:

The CHAIRMAN. Didn't you read the news?

General ZWICKER. I read the news releases.

The CHAIRMAN. And the news releases were to the effect that he had refused to tell whether he was a Communist, and that there was evidence that he had attended Communist leadership schools. It was on all the wire-service stories, was it not? You knew generally what he was here for, did you not?

General ZWICKER. Yes; indeed.

The CHAIRMAN. And you knew generally that he had refused to tell whether he was a Communist, did you not?

General ZWICKER. I don't recall whether he refused to tell whether he was a Communist.

Mr. President, I do not believe a lawyer or a judge within the sound of my voice, who has ever cross-examined one witness, could help but conclude that that answer was evasive and was contrary to the testimony given on page 152 of the hearings, regardless of the findings of the select committee.

I return to the testimony in the hearings:

The CHAIRMAN. Are you the commanding officer there?

General ZWICKER. I am the commanding general.

The CHAIRMAN. When an officer appears before a committee and refuses to answer, would you not read that story rather carefully?

General ZWICKER. I read the press releases.

I challenge Senators to find a press release which did not show that Major Peress had refused to tell the committee whether he had ever been a Communist.

I resume reading from the testimony:

The CHAIRMAN. Then, General, you knew, did you not, that he appeared before the committee and refused, on the grounds of the fifth amendment, to tell about all of his Communist activities? You knew that, did you not?

General ZWICKER. I knew everything that was in the press.

In my opinion, as a cross-examiner, that answer was evasive and not responsive. I continue to read:

The CHAIRMAN. Don't be coy with me, General.

General ZWICKER. I am not being coy, sir.

The CHAIRMAN. Did you have that general picture?

General ZWICKER. I believe I remember reading in the paper that he had taken refuge in the fifth amendment to avoid answering questions before the committee.

How does that jibe with the testimony heretofore read to Senators, who are sitting as judges? Now the witness seems to be refreshing his memory. He is getting on the track again. I resume reading:

The CHAIRMAN. About communism?

General ZWICKER. I am not too certain about that.

Certainly that was rather evasive. From a reading of the cold black type, never having seen General Zwicker in my life, I should say, as a cross-examiner, that the general was evading, hiding, and hedging, with all due respect to the findings of the select committee that he was not an evasive witness.

Before I return to the text of the testimony, let us not forget the sworn testimony of Mr. Harding, who testified, under oath, that seated within 12 or 14 inches of General Zwicker, he heard the General call the chairman, the Senator who is on trial before the Senate, an s. o. b. Let us not forget the testimony General Lawton gave as to his conclusion that General Zwicker was antagonistic toward the McCarthy committee.

I now resume reading from the testimony:

The CHAIRMAN. Do you mean that you did not have enough interest in the case, General, the case of this major who was in your command, to get some idea of what questions he had refused to answer? Is that correct?

General ZWICKER. I think that is not putting it quite right, Mr. Chairman.

The CHAIRMAN. You put it right, then.

General ZWICKER. I have great interest in all of the officers of my command, with whatever they do.

The CHAIRMAN. Let's stick to fifth-amendment Communists, now. Let's stick to him. You told us you read the press releases.

General ZWICKER. I did.

The CHAIRMAN. But now you indicate that you did not know that he refused to tell about his Communist activities. Is that correct?

General ZWICKER. I know that he refused to answer questions for the committee.

Once again, Mr. President, I wish to say it is my conclusion in the argument before this body that that is hedging and evasive. I do not care how presentable General Zwicker was as a witness when he appeared before the select committee. I am talking about the interrogation which resulted in bringing the junior Senator from Wisconsin before the bar of justice in the Senate because of his cross-examination of General Zwicker.

The CHAIRMAN. Did you know that he refused to answer questions about his Communist activities?

General ZWICKER. Specifically, I don't believe so.

In my opinion, Mr. President, that is contrary to the testimony appearing on page 152 of the hearings.

I resume reading from the transcript:

The CHAIRMAN. Did you have any idea?

General ZWICKER. Of course I had an idea.

The CHAIRMAN. What do you think he was called down here for?

I ask my colleagues to listen to this:

General ZWICKER. For that specific purpose.

The CHAIRMAN. Then you knew that those were the questions he was asked, did you not? General, let's try and be truthful. I am going to keep you here as long as you keep hedging and hemming.

General ZWICKER. I am not hedging.

The CHAIRMAN. Or hawing.

General ZWICKER. I am not hawing, and I don't like to have anyone impugn my honesty, which you just about did.

The CHAIRMAN. Either your honesty or your intelligence; I can't help impugning one or the other, when you tell us that a major in your command who was known to you to have been before a Senate committee, and of whom you read the press releases very carefully—to now have you sit here and tell us that you did not know whether he refused to answer questions about Communist activities. I had seen all the press releases, and they all dealt with that. So when you do that, General, if you will pardon me, I cannot help but question

either your honesty or your intelligence, one or the other. I want to be frank with you on that.

Now, is it your testimony now that at the time you read the stories about Major Peress, that you did not know that he had refused to answer questions before this committee about his Communist activities?

General ZWICKER. I am sure I had that impression.

That, Mr. President, in my opinion, is contrary to the testimony which appears on page 152.

I continue to read from the transcript:

The CHAIRMAN. Did you also read the stories about my letter to Secretary of the Army Stevens in which I requested or, rather, suggested that this man be court-martialed, and that anyone that protected him or covered up for him be court-martialed?

General ZWICKER. Yes, sir.

The CHAIRMAN. At least, it appeared before he got his honorable discharge?

General ZWICKER. I don't know that this was true, either, sir.

The CHAIRMAN. In any event, you saw it in a current paper, did you?

General ZWICKER. I did.

The CHAIRMAN. You did not see the story later. So that at the time he was discharged, were you then aware of the fact that I had suggested a court-martial for him and for whoever got him special consideration?

General ZWICKER. If the time jibes, I was.

The CHAIRMAN. Were you aware that he was being given a discharge on February 2? In other words, the day he was discharged, were you aware of it?

General ZWICKER. Yes; yes, sir.

The CHAIRMAN. Who ordered his discharge?

General ZWICKER. The Department of the Army.

The CHAIRMAN. Who in the Department?

General ZWICKER. That I can't answer.

Mr. COHN. That isn't a security matter?

General ZWICKER. No. I don't know. Excuse me.

Mr. COHN. Who did you talk to? You talked to somebody?

General ZWICKER. No; I did not.

Mr. COHN. How did you know he should be discharged?

General ZWICKER. You also have a copy of this. I don't know why you asked me for it. This is the order under which he was discharged, a copy of that order.

The CHAIRMAN. Just a minute. You are referring to an order of January 19.

General ZWICKER. I am not sure, sir. Just a moment.

The CHAIRMAN. January 18. Will you tell me whether or not you were at all concerned about the fact that this man was getting an honorable discharge after the chairman of the Senate Investigating Committee had suggested to the Department of the Army that he be court-martialed? Did that give you any concern?

General ZWICKER. It may have concerned me, but it could not have changed anything that was done in carrying out this order.

The CHAIRMAN. Did you take any steps to have him retained until the Secretary of the Army could decide whether he should be court-martialed?

General ZWICKER. No, sir.

Let me leave the transcript for a moment to give my observations with respect to the cross-examination and the questions which were asked.

Why, I ask, did not the general come clean? In my opinion—and I saw only the cold record, as did our honorable select committee—in my opinion as a lawyer, and trying not to be prejudiced, it seems to me that General Zwicker could have ended the entire controversy at that time, without trying to prolong it.

Now I shall resume reading from the transcript, although I wish more of the judges, the Members of the Senate, were present at this time. A number of them seem to be out of the Chamber, for the purpose of attending meetings.

At that point in the hearing, the chairman was asking whether General Zwicker had taken any steps to have Major Peress retained in the Army until the Secretary decided whether Major Peress should be court-martialed. General Zwicker's answer was, "No, sir."

I now read further from the transcript:

The CHAIRMAN. Did it occur to you that you should?

General ZWICKER. No, sir.

The CHAIRMAN. Could you have taken such steps?

General ZWICKER. No, sir.

The CHAIRMAN. In other words, there is nothing you could have done; is that your statement?

General ZWICKER. That is my opinion.

Of course, Mr. President, any lawyer knows that answer should have been stricken from the record because it was a conclusion of the witness, and should not have been put in evidence.

At that point, Mr. Rainville, who was associated with the Senator from Illinois [Mr. DIRKSEN], I believe, entered the interrogation, and said:

Mr. RAINVILLE. May I interrupt a minute? Doesn't that order specifically state that this is subject to your check as to whether he is in good health and can be discharged?

General ZWICKER. May I read it?

Mr. RAINVILLE. I read the order. It is in there.

General ZWICKER. Paragraph 5 of this order states: Officer will not be separated prior to determination that he is physically qualified for separation by your headquarters.

Mr. RAINVILLE. That is a decision that you must make?

General ZWICKER. Not me personally. My medical officers.

Mr. RAINVILLE. But he would report to you. He would not make the decision without giving you, the commanding general, the order for final verification?

General ZWICKER. It would not be necessary. If something were found wrong physically with the man, he would be retained.

Mr. RAINVILLE. He would report to you?

General ZWICKER. No. He would be retained.

Mr. RAINVILLE. It would be automatic, and you would not have to sign anything?

General ZWICKER. I would not personally; no. The medical officer would make such a report.

Mr. RAINVILLE. But there was somebody in your outfit who could say, "This man can go out or can't go out," and that was the doctor?

General ZWICKER. He could not keep him in if he were physically qualified for separation.

Mr. RAINVILLE. But he could say he could not go out, so that there was discretion within that 90-day period.

The CHAIRMAN. Let me ask this question: If this man, after the order came up, after the order of the 18th came up, prior to his getting an honorable discharge, were guilty of some crime—let us say that he held up a bank or stole an automobile—and you heard of that the day before—let us say you heard of it the same day that you heard of my letter—could you then have taken steps to prevent his discharge, or would he have automatically been discharged?

General ZWICKER. I would have definitely taken steps to prevent discharge.

The CHAIRMAN. In other words, if you found that he was guilty of improper conduct, conduct unbecoming an officer, we will say, then you would not have allowed the honorable discharge to go through; would you?

General ZWICKER. If it were outside the directive of this order?

The CHAIRMAN. Well, yes; let us say it was outside the directive.

General ZWICKER. Then I certainly would never have discharged him until that part of the case——

The CHAIRMAN. Let us say he went out and stole $50 the night before.

General ZWICKER. He wouldn't have been discharged.

The CHAIRMAN. Do you think stealing $50 is more serious than being a traitor to the country as part of the Communist conspiracy?

General ZWICKER. That, sir, was not my decision.

The CHAIRMAN. You said if you learned that he stole $50, you would have prevented his discharge. You did learn something much more serious than that. You learned that he had refused to tell whether he was a Communist. You learned that the chairman of a Senate committee suggested he be court-martialed. And you say if he had stolen $50 he would not have gotten the honorable discharge. But merely being a part of the Communist conspiracy, and the chairman of the committee asking that he be court-martialed, would not give you grounds for holding up his discharge. Is that correct?

General ZWICKER. Under the terms of this letter, that is correct, Mr. Chairman.

The CHAIRMAN. That letter says nothing about stealing $50, and it does not say anything about being a Communist. It does not say anything about his appearance before our committee. He appeared before our committee after that order was made out.

Do you think you sound a bit ridiculous, General, when you say that for $50 you would prevent his being discharged, but for being a part of the conspiracy to destroy this country you could not prevent his discharge?

General ZWICKER. I did not say that, sir.

The CHAIRMAN. Let us go over that. You did say if you found out he stole $50 the night before, he would not have gotten an honorable discharge the next morning?

General ZWICKER. That is correct.

The CHAIRMAN. You did learn, did you not, from the newspaper reports, that this man was part of the Communist conspiracy, or at least that there was strong evidence that he was. Did you not think that was more serious than the theft of $50?

General ZWICKER. He has never been tried for that, sir, and there was evidence, Mr. Chairman——

Mr. President, I say that was rather evasive. In my opinion, with all due respect to the general, he was hedging.

Now I resume reading from the transcript of testimony:

The CHAIRMAN. Don't you give me doubletalk. The $50 case, that he had stolen the night before, he has not been tried for that.

General ZWICKER. That is correct. He didn't steal it yet.

The CHAIRMAN. Would you wait until he was tried for stealing the $50 before you prevented his honorable discharge?

General ZWICKER. Either tried or exonerated.

The CHAIRMAN. You would hold up the discharge until he was tried or exonerated?

General ZWICKER. For stealing the $50; yes.

The CHAIRMAN. But if you heard that this man was a traitor—in other words, instead of hearing that he had stolen $50 from the corner store, let us say you heard that he was a traitor, he belonged to the Communist conspiracy; that a Senate committee had the sworn testimony to that effect. Then would you hold up his discharge until he was either exonerated or tried?

General ZWICKER. I am not going to answer that question, I don't believe, the way you want it, sir.

Digressing for a moment, and speaking as a man who has cross-examined witnesses, and as one of the judges here, I say that that answer was "ducking." Was he not, in fact, anticipating future cross-examination?

Continuing with the testimony:

The CHAIRMAN. I just want you to tell me the truth.

General ZWICKER. On all of the evidence or anything that had been presented to me as commanding general of Camp Kilmer, I had no authority to retain him in the service.

The CHAIRMAN. You say that if you had heard that he had stolen $50, then you could order him retained. But when you heard that he was part of the Communist conspiracy, that subsequent to the time the orders were issued a Senate committee took the evidence under oath that he was part of the conspiracy, you say that would not allow you to hold up his discharge?

General ZWICKER. I was never officially informed by anyone that he was part of the Communist conspiracy, Mr. Senator.

I suppose the chairman should have had a picture taken of the gentleman presiding over a secret cell. How can anyone officially inform someone that a man is a member of the Communist conspiracy? Such a case is rare, indeed. The hundreds who have appeared before the committee of the Senator from Indiana [Mr. JENNER] have been controlled by party discipline. If they know that their membership cannot be proved, they will deny it. But if they think we have one iota of evidence against them, they take refuge behind the fifth amendment to the Constitution, a revered document which the Communists seek to destroy. So the general had not been notified officially.

Continuing with the testimony:

The CHAIRMAN. Well, let's see now. You say you were never officially informed?

General ZWICKER. No.

The CHAIRMAN. If you heard that he had stolen $50 from someone down the street, if you did not hear it officially, then could you hold up his discharge? Or is there some peculiar way you must hear it?

General ZWICKER. I believe so, yes, sir; until I was satisfied that he had or hadn't, one way or the other.

The CHAIRMAN. You would not need any official notification so far as the 50 bucks is concerned?

General ZWICKER. Yes.

The CHAIRMAN. But you say insofar as the Communist conspiracy is concerned, you need an official notification?

General ZWICKER. Yes, sir; because I was acting on an official order, having precedence over that.

The CHAIRMAN. How about the $50? If one of your men came in a half hour before he got his honorable discharge and said, "General, I just heard downtown from a police officer that this man broke into a store last night and stole $50," you would not give him an honorable discharge until you had checked the case and found out whether that was true or not; would you?

General ZWICKER. I would expect the authorities from downtown to inform me of that or, let's say, someone in a position to suspect that he did it.

The CHAIRMAN. Let's say one of the trusted privates in your command came in to you and said, "General, I was just downtown and I have evidence that Major Peress broke into a store and stole $50." You would not discharge him until you had checked the facts, seen whether or not the private was telling the truth and seen whether or not he had stolen the $50?

General ZWICKER. No; I don't believe I would. I would make a check, certainly, to check the story.

The CHAIRMAN. Would you tell us, General, why $50 is so much more important to you than being part of the conspiracy to destroy a nation which you are sworn to defend?

General ZWICKER. Mr. Chairman, it is not, and you know that as well as I do.

The CHAIRMAN. I certainly do. That is why I cannot understand you sitting there, General, a general in the Army, and telling me that you could not, would not, hold up his discharge having received information——

General ZWICKER. I could not hold up his discharge.

The CHAIRMAN. Why could you not do it in the case of an allegation of membership in a Communist conspiracy, where you could if you merely heard some private's word that he had stolen $50?

The next few answers are contrary to the testimony on pages 146, 147, and 148 of the hearings.

General ZWICKER. Because, Mr. Senator, any information that appeared in the press or any releases was well known to me and well known to plenty of other people long prior to the time that you ever called this man for investigation, and there were no facts or no allegations, nothing presented from the time that he appeared before your first investigation that was not apparent prior to that time.

The CHAIRMAN. In other words, as you sat here this morning and listened to the testimony you heard nothing new?

Mr. COHN. Nothing substantially new?

General ZWICKER. I don't believe so.

The CHAIRMAN. So that all of these facts were known at the time he was ordered to receive an honorable discharge?

General ZWICKER. I believe they are all on record; yes, sir.

Digressing for a moment, how does that compare with the evasive sparring of the witness in the first part of his interrogation? Why could he not have said at the outset, "Yes; I know all about this man, but I cannot tell you about him"? What is a cross-examiner expected to do? Is he expected to labor for hours and, finally, at the end of a lengthy interrogation, find that the facts were already on record?

Mr. President, I point out that the present attendance of Members of the distinguished body of judges who must weigh the law and the facts with respect to one of our fellow Members consists of 10 Members of the United States Senate—11 counting the Senator who is addressing the Senate, and 12 counting the Presiding Officer, the distinguished Senator from Connecticut [Mr. PURTELL]. Let me say again to the learned judges who honor me by their presence that I appreciate their attendance. I know of no reason, other than the pending case, why they were called back to Washington. The lack of attendance may or may not be a mark of disrespect for me or for the remarks I may make, lengthy or otherwise. However, it indicates a total disrespect for the man charged in the censure resolution, whether he be a Democrat or a Republican.

I think it is an unfortunate situation. Senators may censure me for what I have said if they wish to do so. Let them present their resolutions as fast as they can send them to the desk. All I am trying to do is to state the law as I view it, even though I may not be able to impress the learned judges who must pass upon the future of fellow Senators. It is just too bad that such large groups of jurors leave for other parts of the Capitol, for the Senate Office Building, or wherever else they may go.

I hope I shall not have to be constantly harping on this topic, but I do hope and pray that the gentlemen of the press will relate these facts to the American people, and will tell the American people that they are witnessing the administration of a kind of justice that I, at least, have not seen anywhere in the United States, in Mexico, or in any other part of the world.

Mr. CASE. Mr. President, will the Senator yield?

Mr. WELKER. I am happy to yield. Such a slim attendance is unfair to the members of the select committee, as well as to the defendant in the case.

Mr. CASE. I desire to have the Senator yield so that I may propound a unanimous-consent request that I may suggest the absence of a quorum without the Senator from Idaho losing his right to the floor. That was my purpose in asking the Senator to yield.

Mr. WELKER. In the words of the distinguished junior Senator from Arizona [Mr. GOLDWATER], when he addressed the Senate the other day, when I made the same courteous suggestion to him, perhaps the Senator should not waste his time, because I will lose more Senators than I have now.

However, on second thought, I am becoming a bit tired, and I shall be happy to yield to the Senator from South Dakota for that purpose, provided I do not thereby lose the floor.

Mr. CASE. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the Senator from Idaho losing his right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Abel	Douglas	Humphrey
Anderson	Duff	Ives
Barrett	Dworshak	Jackson
Bennett	Eastland	Jenner
Bridges	Ellender	Johnson, Colo.
Brown	Ervin	Johnson, Tex.
Bush	Ferguson	Johnston, S. C.
Butler	Flanders	Kefauver
Byrd	Fulbright	Kilgore
Capehart	George	Knowland
Carlson	Gillette	Kuchel
Case	Goldwater	Langer
Chavez	Green	Lehman
Clements	Hayden	Lennon
Cooper	Hendrickson	Long
Cotton	Hennings	Magnuson
Crippa	Hickenlooper	Malone
Daniel, S. C.	Hill	Mansfield
Daniel, Tex.	Holland	Martin
Dirksen	Hruska	McClellan

Monroney	Robertson	Symington
Mundt	Russell	Thye
Murray	Saltonstall	Watkins
Neely	Schoeppel	Welker
Pastore	Smith, Maine	Wiley
Payne	Smith, N. J.	Williams
Potter	Sparkman	Young
Purtell	Stennis	

The PRESIDING OFFICER (Mr. PURTELL in the chair). A quorum is present. The Senator from Idaho has the floor.

Mr. WELKER. Mr. President, the next question asked by the chairman was:

The CHAIRMAN. Do you think, General, that anyone who is responsible for giving an honorable discharge to a man who has been named under oath as a member of the Communist conspiracy should himself be removed from the military?

General ZWICKER. You are speaking of generalities now, and not on specifics—is that right, sir, not mentioning about any one particular person?

The CHAIRMAN. That is right.

General ZWICKER. I have no brief for that kind of person, and if there exists or has existed something in the system that permits that, I say that that is wrong.

The CHAIRMAN. I am not talking about the system. I am asking you this question, General, a very simple question: Let us assume that John Jones, who is a major in the United States Army——

General ZWICKER. A what, sir?

The CHAIRMAN. Let us assume that John Jones is a major in the United States Army. Let us assume that there is sworn testimony to the effect that he is part of the Communist conspiracy, has attended Communist leadership schools. Let us assume that Maj. John Jones is under oath before a committee and says, "I cannot tell you the truth about these charges because, if I did, I fear that might tend to incriminate me." Then let us say that General Smith was responsible for this man receiving an honorable discharge, knowing these facts. Do you think that General Smith should be removed from the military, or do you think he should be kept on in it?

Mr. President, in my opinion, this is the crucial question, particularly when amended by the next statement of the chairman, the junior Senator from Wisconsin [Mr. McCARTHY]. I continue to read:

General ZWICKER. He should be by all means kept if he were acting under competent orders to separate that man.

The CHAIRMAN. Let us say he is the man who signed the orders. Let us say General Smith is the man who originated the order.

General ZWICKER. Originated the order directing his separation?

The CHAIRMAN. Directing his honorable discharge.

General ZWICKER. Well, that is pretty hypothetical.

The CHAIRMAN. It is pretty real, General.

General ZWICKER. Sir, on one point, yes. I mean, on an individual, yes. But you know that there are thousands and thousands of people being separated daily from our Army.

The CHAIRMAN. General, you understand my question——

General ZWICKER. Maybe not.

The CHAIRMAN. And you are going to answer it.

General ZWICKER. Repeat it.

The CHAIRMAN. The reporter will repeat it.

(The question referred to was read by the reporter.)

General ZWICKER. That is not a question for me to decide, Senator.

The CHAIRMAN. You are ordered to answer it, General. You are an employee of the people.

General ZWICKER. Yes, sir.

The CHAIRMAN. You have a rather important job. I want to know how you feel about getting rid of Communists.

General ZWICKER. I am all for it.

The CHAIRMAN. All right. You will answer that question, unless you take the fifth amendment. I do not care how long we stay here, you are going to answer it.

General ZWICKER. Do you mean how I feel toward Communists?

The CHAIRMAN. I mean exactly what I asked you, General; nothing else. Anyone with the brains of a 5-year-old child can understand that question.

The reporter will read it to you as often as you need to hear it so that you can answer it, and then you will answer it.

General ZWICKER. Start it over, please.

(The question was reread by the reporter.)

General ZWICKER. I do not think he should be removed from the military.

The CHAIRMAN. Then, General, you should be removed from any command. Any man who has been given the honor of being promoted to general and who says, "I will protect another general who protected Communists" is not fit to wear that uniform, General. I think it is a tremendous disgrace to the Army to have this sort of thing given to the public. I intend to give it to them. I have a duty to do that. I intend to repeat to the press exactly what you said. So you know that. You will be back here, General.

Do you know who initiated the order for the honorable discharge of this major?

General ZWICKER. As a person, sir?

The CHAIRMAN. Yes.

General ZWICKER. No; I do not.

The CHAIRMAN. Have you tried to find out?

General ZWICKER. No; I have not.

The CHAIRMAN. Have you discussed that matter with Mr. Adams?

General ZWICKER. As a person, no, sir.

The CHAIRMAN. How did you discuss it with him other than as a person?

Mr. President, in connection with the above remark made by Senator McCARTHY in connection with the fitness of the general to wear the uniform, I desire to call the attention of this learned body to the incorrect reporting of the statement as it appeared in many newspapers. Even at the late date of November 10, 1954, the Washington Post and Times Herald, a newspaper which should have the exact facts right at hand, printed in its complete Capital edition of that day this statement ascribed to Senator McCARTHY:

You are unfit to wear that uniform, General.

This is the exact statement as quoted by the Washington Post and Times Herald. I have the original newspaper in my hand. Beginning in the right-hand column, the headline is: "Resolution Raps McCARTHY." At the bottom of the column is the word "McCARTHY," and then the sentence is continued on page 2; "told Zwicker he was 'not fit to wear that uniform.'"

Mr. President, you know such a statement is not true. The correct statement is:

Any man who has been given the honor of being promoted to general and who says, "I will protect another general who protected Communists" is not fit to wear that uniform, General.

That is far different from saying, "You are unfit to wear that uniform, General." In fact, the statement made by Senator McCARTHY merely implies, "if the shoe fits, wear it." It is a statement with which all good Americans agree. We do not want any of our generals to protect a general who protects Communists.

In my opinion, such reporting is either grossly careless and inaccurate or it is deliberately distorted for propaganda purposes. Were I operating a newspaper, I would not like to be reminded of either charge.

It is my opinion that the misinterpretation of the statement which was made by the Senator to General Zwicker has prejudiced the cause of the junior Senator from Wisconsin in the public mind more than any other factor involved in this action.

While I am discussing the Washington Post and Times Herald—and I say to them, print it any way you want to, because the RECORD will be complete—I wish to tell of a little experience I had on Veterans' Day in Constitution Hall, in the shadow of the Washington Monument. I was honored to be the principal speaker, and to pay my respects to a colleague and a friend of mine, who is now here on trial. I tried to make my contribution in an honorable and in an ethical way.

The Washington Post and Times Herald had its photographer present, who took some pictures of those present at the gathering. I have them before me. The Washington Post and Times Herald did not hurt me or hurt Senator McCARTHY, and I shall presently go into that. The event occurred on Friday, November 12, 1954. That newspaper should be the greatest in the land, because it is located here in the Nation's Capital. It saw fit to take some pictures of those present at the gathering. I say to the members of the press, and especially to the reporters who did this for the Washington Post and Times Herald, that in Senator McCARTHY's own State, in the fine city of Milwaukee, I have paid my respects to him as a hard-punching American who wants to run Communists out of Government. Never did I think I would see such a thing in a newspaper which prides itself on being one of the Nation's greatest newspapers. The story in the paper does not hurt Senator McCARTHY; it does not hurt Rabbi Schultz, of New York, under whose auspices the meeting was held, indeed, he arranged it; it does not hurt HERMAN WELKER, but it does do the cruelest injustice to John Maragon, who I understand was convicted of a crime. This is the wonderful reporting of the Washington Post and Times Herald—a picture of Rabbi Schultz, Senator Welker, and Maragon, and under it the words, "They rallied behind the junior Senator from Wisconsin."

The more I see of certain persons, the more I see of certain reporters, the more I respect ex-convicts who have paid their penalty for violating laws. I am not saying that the picture hurt me. Think of the man Maragon. He had erred, and I have no reason to defend whatever he may have done, but at least he paid the penalty. He was convicted by a court of law, as I understand, for the crime of

perjury. He was sentenced to the Federal penitentiary. He heard the gate lock behind him, and, as I understand, for 24 months he did not exactly have a White Christmas or a wonderful Thanksgiving. He answered to the law as he should have done. But why would the Washington Post and Times Herald portray him to the American people as sitting there on the platform with a Senator and with Rabbi Schultz? Not that I would consider it a disgrace to sit beside Maragon, because, as I have said, he had paid the penalty for his violation of criminal law. I wonder how he feels, I wonder how the American people feel, about the splendid reporting the reporters did on that occasion. I wonder if John Maragon has reflected upon the months, the long, trying months, he spent out of society. I wonder if after seeing the picture he thought it was quite the honorable and ethical thing to publish it. I wonder what the Washington Post and Times Herald would have done had the junior Senator from Wisconsin absolutely faked a picture with the design to mislead the American people, and to discredit those who were present at a rally dedicated to saving our country.

I never thought that in my lifetime I would see anything so unjustified, not to Senator WELKER, not to Rabbi Schultz, but to a man who had digressed from the law, who had been a criminal, and who had answered for his crime by going to the penitentiary, and then was portrayed as one of the three who rallied at the McCarthy meeting. I do not care whether John Maragon was an ex-convict or not. He paid the penalty. I do not know anything about publishing newspapers, and whether the person responsible for this reporting was the picture editor, the news editor, or someone else, but in the heart of whoever was responsible certainly there is a moral penalty which he has not paid—not for a wrong done to Senator WELKER or to Rabbi Schultz, but to this man who had paid his debt to society, and then had to suffer such vicious, lowdown, publicity as that.

Sometimes I wonder, with respect to freedom of the press, whether or not it is exactly right, when such instances as I have just related occur. Is it freedom of the press, or freedom to abuse a man who is defenseless and oppressed?

I care not what the newspapers say or what they write about me, so long as they try to stick to the truth. Let the columnists smear me, as they love to do; but the television and radio commentators and the writers had best stick to the truth. I want them to channel their comments and writing to the State of Idaho, which gave me the highest office it could give, because I will be willing, ready, and happy to meet them at any time for debate on the question of honorable, decent freedom of the press, when they do such a thing to a man who paid the penalty that always is paid by one who is convicted of committing a crime.

Mr. President, I feel these things at the bottom of my heart. Now that I have paid my respects to that newspaper, in connection with that matter, I will say, further, that some time I hope to meet that great newspaper in a court where there are some rules and where the players are governed by them.

Let me repeat that the more I see and hear of certain of those who would injure such a person—and even though he be an ex-convict, he paid his penalty—the more I respect the man who paid that penalty.

As I was saying before disgressing, the statement which was contained in the press gave an erroneous description and prejudiced the cause of the defendant, so to speak, under Senate Resolution 301. Certainly that statement was far different from saying, "You are unfit to wear that uniform, General." In fact, the statement made by Senator MCCARTHY merely implied, as I stated before, "If the shoe fits, wear it."

Perhaps, Mr. President, if I, or some other Member of this body had been cross-examining the general, we would not have used that language. However, members of the select committee, when interrogated by me, have admitted that, as all persons know, no two cross-examiners proceed in the same way.

Now I wish to continue reading from the testimony. I hope to conclude my remarks tonight.

At the point in the hearing I had reached, we find that the following occurred:

General ZWICKER. I mean as an individual. This is a Department of the Army order.

The CHAIRMAN. Have you tried to find out who is responsible?

General ZWICKER. Who signed this order?

The CHAIRMAN. Who was responsible for the order?

General ZWICKER. No, sir; I have not.

The CHAIRMAN. Are you curious?

In referring to the "retake" that General Zwicker had before the select committee, I have heard members of the select committee say they had never seen a finer or more cooperative witness, or words to that effect. But, Mr. President, was he so cooperative when he stated, "Frankly, no"—that he was not even curious about who was responsible for the order?

I read further from the hearing:

General ZWICKER. Frankly, no.

The CHAIRMAN. You were fully satisfied, then, when you got the order to give an honorable discharge to this Communist major?

General ZWICKER. I am sorry, sir.

The CHAIRMAN. Read the question.

(The question was read by the reporter.)

General ZWICKER. Yes, sir; I was.

Mr. COHN. General, I have just 1 or 2 questions.

The CHAIRMAN. Let me ask one question. In other words, you think it is proper to give an honorable discharge to a man known to be a Communist?

General ZWICKER. No; I do not.

He is entitled to praise for that statement.

I read further:

The CHAIRMAN. Why do you think it is proper in this case?

General ZWICKER. Because I was ordered to do so.

The CHAIRMAN. In other words, anything that you are ordered to do, you think is proper?

General ZWICKER. That is correct. Anything that I am ordered to do by higher authority, I must accept.

Mr. President, let me say that I do not profess to be an expert on military matters; but in the days when we had a certain traitor in our country, I wonder what would have happened if someone under the command of Gen. Benedict Arnold had not tried to alert the American people to what Benedict Arnold was doing. As a lawyer, it appears to me, regardless of whether the man concerned was in the military service or in any other branch of the executive arm of the Government, or whether he was in the judicial branch, or the legislative branch, and I say this based upon what law I know—that any man who would, in fact, try to conceal or cover up a man of that nature would be guilty of the crime of conspiracy, as was so ably discussed by the Senator from Indiana in his first speech on this subject matter.

I read further from the hearing:

The CHAIRMAN. Do you think that the higher authority would be guilty of improper conduct?

General ZWICKER. It is conceivable.

The CHAIRMAN. Do you think they are guilty of improper conduct here?

General ZWICKER. I am not their judge, sir.

Mr. President, at this point I should like to ask, on behalf of the American people and on behalf of the sovereign State I in part represent, who happens to be the judge? Who pays the general's salary? Who asks the general to live up to his oath?

I know something about military orders; but if at any time in the history of the United States we have needed men who would stand up and be counted, it is now.

I read further from the testimony:

The CHAIRMAN. Do you think to order the honorable discharge for a Communist major was improper conduct?

General ZWICKER. I think it was improper procedure, sir.

The CHAIRMAN. Do you think it is improper?

Mr. COHN. General, I just want to ask you this: Peress was discharged on February 2, which was a Tuesday.

General ZWICKER. That is right.

Mr. COHN. He appeared before the committee on Saturday. On Monday or Tuesday, did you speak to anybody in the Department of the Army in Washington, telephonically, about the Peress case? On Monday or Tuesday?

General ZWICKER. Let me think a minute. It is possible that I called First Army to inform them that Peress had changed his mind and desired a discharge as soon as possible.

Mr. President, let me repeat that part of the testimony:

General ZWICKER. Let me think a minute. It is possible that I called First Army to inform them that Peress had changed his mind and desired a discharge as soon as possible.

I should like to ask the judges before me to note carefully the timing, as to when Major Peress wanted his discharge. Continuing with the testimony:

Mr. COHN. Who would you have told in the First Army? Who would you call? G–2, or General Burress?

General ZWICKER. I don't think in that case I would call General Burress.

Mr. COHN. General Seabree?

General ZWICKER. No, it would have been G–1, or Deputy Chief of Staff.

Mr. COHN. Who is that?

General ZWICKER. General Gurney.

Mr. COHN. You don't remember which one it was?

General ZWICKER. I don't recall that I called.

Mr. COHN. Did you talk to Mr. Adams in those days?

General ZWICKER. No, sir.

Mr. COHN. Did you ever talk to Mr. Adams before yesterday? You recall whether or not you spoke to him.

General ZWICKER. I know Mr. Adams, yes. There was one call, but I think that came from a member of your committee, from Washington, requesting that this man appear before your committee first.

The CHAIRMAN. You understand the question. Did you talk to Mr. Adams before yesterday?

General ZWICKER. I don't recall. I don't believe so, sir.

I think had I been cross-examining, I would have gone into that subject a little deeper. I would have gone further into the failure to recall, in connection with an incident so important as this.

Continuing with the testimony:

The CHAIRMAN. Did you talk to anyone in Washington?

General ZWICKER. No, sir, about this case.

The CHAIRMAN. Within the week preceding his discharge?

General ZWICKER. No, sir.

The CHAIRMAN. Did you at any time ever object to this man being honorably discharged?

General ZWICKER. I respectfully decline to answer that, sir.

The CHAIRMAN. You will be ordered to answer it.

General ZWICKER. That is on the grounds of this Executive order.

The CHAIRMAN. You are ordered to answer. That is a personnel matter.

General ZWICKER. I shall still respectfully decline to answer it.

The CHAIRMAN. Did you ever take any steps which would have aided him in continuing in the military after you knew that he was a Communist?

General ZWICKER. That would have aided him in continuing, sir?

The CHAIRMAN. Yes.

General ZWICKER. No.

The CHAIRMAN. Did you ever do anything instrumental in his obtaining his promotion after knowing that he was a fifth-amendment case?

General ZWICKER. No, sir.

The CHAIRMAN. Did you ever object to his being promoted?

General ZWICKER. I had no opportunity to, sir.

The CHAIRMAN. Did you ever enter any objection to the promotion of this man under your command?

General ZWICKER. I had no opportunity to do that.

The CHAIRMAN. You say you did not; is that correct?

General ZWICKER. That is correct.

The CHAIRMAN. And you refuse to tell us whether you objected to his obtaining an honorable discharge?

General ZWICKER. I don't believe that is quite the way the question was phrased before.

The CHAIRMAN. Well, answer it again, then.

General ZWICKER. I respectfully request that I not answer that question.

The CHAIRMAN. You will be ordered to answer.

General ZWICKER. Under the same authority as cited before, I cannot answer it.

I digress for a moment to refer again to the very pious platform of my party, adopted at the national convention in 1952.

Continuing with the testimony:

Mr. COHN. Did anybody on your staff, General—Colonel Brown or anyone in G–2—communicate with the Department of the Army on February 1 or February 2? In other words, in connection with the discharge?

General ZWICKER. I don't know, but I don't believe so.

Mr. COHN. To the best of your knowledge, no?

General ZWICKER. No.

Mr. COHN. In other words, on January 18, 1954, you received a direction from the Secretary, signed by the Adjutant General—I assume that is General Bergin—telling you to give this man an honorable discharge from the Army at any practicable date, depending on his desire, but in no event later than 90 days; that that was the order, and you had nothing from the order to change that order in view of his testimony before the committee; and, therefore, when the man came in and wanted an honorable discharge, you felt under this order compelled to give it to him as a decision that had been made by the Adjutant General. Is that correct?

General ZWICKER. That is correct.

Mr. COHN. And you received no additional words from the Adjutant General on February 1 or February 2, and before you gave the discharge you did not call and say, "In view of all of this, and his testimony on Saturday, and Senator MCCARTHY's request for a court-martial, this man is in here now and is that all right?" You never made any such call?

General ZWICKER. No; I did not.

I digress for a moment to say once again that the American people, through the Congress of the United States, must and will finally find out why this sort of conduct took place.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. WELKER. I am glad to yield.

Mr. LONG. Does the Senator feel that Major Peress actually committed some crime while he was in the military service, or is it his feeling that Major Peress should have been court-martialed for something he may have done prior to the time he joined the military?

Mr. WELKER. I will say to my distinguished friend from Louisiana that the least that could have been expected of the Department of the Army would have been not to expedite the discharge after knowledge had been given to them that Peress was a man who had taken refuge behind the fifth amendment to the Constitution.

Mr. LONG. One thing that concerns the junior Senator from Louisiana in considering this case is whether or not the military actually had the authority or the power to dishonorably discharge Major Peress or to court-martial him. If they did not have that power, if they could not make a court-martial stand up, then, of course, it would seem that they are not subject to censure or criticism for failure to court-martial him. But if Major Peress had committed any offense in the nature of subversive activities while a member of the military, he would have been subject to court-martial or dishonorable discharge. Does the Senator contend that Major Peress could have been prosecuted for having been a Communist prior to the time he joined the Army?

Mr. WELKER. As I understand, he made a false affidavit.

Mr. LONG. It is my understanding that the way the fact came to the attention of those in the service that he was a Communist was that he declined to sign the loyalty oath. Obviously, someone should have caught that. That was an error, as I understand.

Mr. WELKER. Yes; a very important error.

I do not wish to be bothered with further questions because I know that the judges present are tired, and I certainly am tired. Let me answer by saying that, in the hypothetical case suggested, a private brought back the word that John Jones, a major, had stolen $50 from a store. Certainly he had not been convicted of anything. He had not been convicted of a crime. But, as General Zwicker testified under oath before his God, with that trivial amount of information, he would have withheld the discharge of Maj. John Jones.

Mr. LONG. The Senator from Idaho understands, of course, that I am seeking the facts.

Mr. WELKER. I know the Senator is doing that.

Mr. LONG. I do not wish to argue the case with the Senator. I am merely trying to get the facts. With regard to the $50——

Mr. WELKER. If the Senator will permit me to interrupt him, we have passed the usual hour of adjournment. I am not trying to hedge in any way. I shall be in the Chamber tomorrow, and the Senator may address his questions to me at that time, and I shall be glad to answer his questions and give him any information I have. However, I still have a few pages of my prepared remarks to read, and I wish to continue, if I may do so without offending my devoted friend from Louisiana. Is that agreeable to him?

Mr. LONG. That is agreeable, of course.

Mr. WELKER. I thank the Senator.

Then Mr. Rainville takes over the examination:

Mr. RAINVILLE. General, I think at one place there you said he changed his request to an immediate discharge?

General ZWICKER. That is correct.

Mr. RAINVILLE. Then he had previously objected to the discharge or at least he wanted the full 90 days?

General ZWICKER. No, sir. He requested to be discharged on March 31, I think, which would make it 60 days from receipt, rather than the full 90. He did not ask for the full 90, but he asked for what amounted to 60 days, 2 months.

Mr. RAINVILLE. Then he came in as soon as he testified, and asked for an immediate discharge and it was processed routinely?

General ZWICKER. That is correct.

Mr. RAINVILLE. But you never thought it necessary after he appeared before the committee or when he made that request to discuss his appearance before the committee with him?

General ZWICKER. I am sorry.

Mr. RAINVILLE. My question is this: After he appeared before the committee and he was still a member of your command, even though he was on separation, you didn't ask him to come in and report what he testified to?

General ZWICKER. No, sir.

Mr. RAINVILLE. And you didn't think it was necessary when he came in and asked for an

immediate discharge instead of 60 days to ask him what transpired so as to get some kind of an idea as to why he wanted it immediately, or why he is in a rush to get out now instead of taking the 60 days that he wanted before that?

General ZWICKER. That was beyond my prerogative. I did not.

Mr. RAINVILLE. As an officer of your command, certainly what we usually call the old man's privilege there, prerogative, they may ask that sort of question, and so forth, so long as he is one of your command. But you didn't do it?

General ZWICKER. No. He told me he wanted to be released and I said, "All right."

Mr. JONES. General, did the counsel of the Army advise you not to discuss the Peress case?

I understand that Mr. Robert Jones was formerly the administrative assistant to the Senator from Michigan [Mr. POTTER]. He no longer occupies that position.

General ZWICKER. He did not.

Mr. JONES. He did not advise you?

General ZWICKER. No, sir.

The CHAIRMAN. Who did advise you?

General ZWICKER. No one.

The CHAIRMAN. What did you and Mr. Adams talk about yesterday?

General ZWICKER. Mr. Adams and I talked about the various procedures of prior meetings such as this. He tried to indicate what I might expect.

I digress to say to the judges present that that statement might or might not give some indication about the kind of cooperation extended by General Zwicker at the original hearing.

Mr. JONES. Did Mr. Adams advise anyone not to discuss the Peress case to this committee?

General ZWICKER. I am sorry. He did not advise me.

Mr. JONES. I mean to your knowledge, did he advise any other person?

General ZWICKER. To my knowledge, he did not.

Mr. JONES. General, what is your considered opinion of this order here forbidding you to assist this committee in exposing the Communist conspiracy in the Army?

General ZWICKER. Sir, I cannot answer that, because it is signed by the President. The President says don't do it and therefore I don't.

Mr. JONES. What is your considered opinion of that order? You see now, here is a perfectly good example of a Communist being promoted right in the ranks, all because of this Executive order here, in many respects, where we could not get at these things earlier. What is your considered opinion of an order of that nature?

General ZWICKER. I won't answer that, because I will not criticize my Commander in Chief.

The CHAIRMAN. General, you will return for a public session at 10:30 Tuesday morning.

General ZWICKER. This coming Tuesday?

The CHAIRMAN. Yes.

General ZWICKER. Here?

The CHAIRMAN. Yes.

General ZWICKER. At what time?

The CHAIRMAN. 10:30. In the meantime, in accordance with the order which you claim forbids you the right to discuss this case, you will contact the proper authority who can give you permission to tell the committee the truth about the case before you appear Tuesday, and request permission to be allowed to tell us the truth about the——

General ZWICKER. Sir, that is not my prerogative, either.

The CHAIRMAN. You are ordered to do it.

General ZWICKER. I am sorry, sir. I will not do that.

The CHAIRMAN. All right.

General ZWICKER. If you care to have me, I will cite certain other portions of this.

The CHAIRMAN. You need cite nothing. You may step down.

(Whereupon, at 5:15 p. m., the committee was recessed, subject to the call of the Chair.)

I may add at this point that the chairman accepted the situation, when he was informed by General Zwicker that he would not do what was requested of him, and the chairman made no attempt to threaten the general with a contempt citation.

Perhaps many Senators, who sit here as judges, wonder why I have taken their time to read this testimony into the RECORD. I am being brutally frank when I say that if my political future must stand on what I have said today, that is certainly agreeable with me. I have read the testimony into the RECORD so that millions of people throughout the land, as they read the CONGRESSIONAL RECORD, may have before them the original testimony as it is found in the proceedings before the subcommittee.

I turn now to another cross-examination. It was cross-examination conducted by the select committee. I again wish to make it clear that I am not trying to abuse or vilify the Senators who served on the select committee, all of whom are friends of mine.

The Senate is sitting as a court of law, and I am giving the Senate such information as I have. What I am about to read occurred in the cross-examination of another witness before the select committee. Bear in mind that the censure hearings were the result of the charge that the junior Senator from Wisconsin was unduly rough with General Zwicker on cross-examination. I shall read from page 347 of the select committee hearings. Mr. de Furia is interrogating the junior Senator from Wisconsin. I read:

Mr. DE FURIA. And yet you say he was the most evasive and arrogant, one of the most evasive and most arrogant, witnesses who ever appeared before you?

Mr. MCCARTHY. That is correct.

Mr. DE FURIA. Now, in all fairness, Senator, aren't you sometimes addicted to hyperbole?

I am saying this in all kindness, sir.

Senator MCCARTHY. Am I addicted——

Mr. DE FURIA. I have personal qualities of language that other people don't.

Mr. WILLIAMS. I don't think that is a proper question, Mr. Chairman. I don't think we are here trying anybody for hyperbole.

The CHAIRMAN. He will not be required to answer it.

Mr. DE FURIA. I am sorry I asked the question; I shouldn't, sir.

The CHAIRMAN. That is all right.

Mr. DE FURIA. I meant it in all kindness, I assure you.

The CHAIRMAN. I recognize that.

Senator MCCARTHY. I am sure you did.

Mr. President, I now digress for a moment to say that the reason why I bring this particular portion of the testimony before the Senate is to show what the distinguished chairman of the select committee feels might happen in cross-examination.

The junior Senator from Wisconsin said, "I am sure you did."

The CHAIRMAN. Being a lawyer myself, I realize sometimes when we get into the warmth of a cross-examination, we will use some language that might sound like it was exaggerated. We don't recognize it at the time because we're feeling intense, and all that sort of thing. So we will let the incident pass.

Mr. DE FURIA. Very well, sir.

The importance of this mild reproach addressed by Senator WATKINS to the committee lawyer, Mr. de Furia, is not realized unless one analyzed the word "hyperbole." It is defined as extravagant exaggeration. Macauley calls it the boldest figure in rhetoric, the hyperbole, it lies without deceiving. Now it appears, Mr. President, that this dictionary-minded counsel for the committee has come up with a polite way of calling the Senator from Wisconsin a liar. And for that he is mildly reproached and instantly forgiven by the chairman conducting the hearing.

I am not critical of the chairman upon that point, because I have made mistakes in cross-examination. I have made many statements for which I am sorry. I know of no man who has ever cross-examined who has not made mistakes. But I am trying to show that the chairman of the select committee indicated how easy it is for a man to go overboard in cross-examination.

Mr. President, I do not wish to offend any member of the select committee or any Member of the United States Senate. I desire to try to suggest to the Senate that human beings are not all the same, and sometimes on cross-examination, we lose our tempers, our patience, and say things we should not say.

Let us see how the same chairman conducted other hearings, and how he treated one other lawyer who was not serving his committee. I call attention to the hearings of the Internal Security Committee on the subject of Subversive Influence in the United Electrical, Radio, and Machine Workers of America, April 17, 1952. The Senator from Utah [Mr. WATKINS] was conducting the hearing as a one-man committee. Please follow the testimony on page 54 of that hearing. I beg the judges, so many of whom are present, that they will favor me by reading that testimony. I do not bring it up to try to embarrass the Senator from Utah, because in a like situation, certainly, I would probably have done the same, or even worse. I bring it up to invite the attention of the judges to the fact that Senators can be badgered and become angry and can lose their patience. That is the sole and only reason why I cite this testimony to the Senate.

I now read from the hearings at page 54:

Mr. ARENS. In July of 1950, you wrote a letter, did you not, to Representative Walter B. Huber, in which you stated that you are not a Communist and that you have never been a Communist; isn't that true?

Mr. Arens was one of the staff counsel for the Jenner committee. I read further:

Mr. SIENS. In view of the line of questioning, I assert the privilege.

Mr. ARENS. On March 11, 1949, you wrote a letter to Elgin Day, president of local 544 of the UPWA, Lorain, Ohio, in which you stated that you were not a Communist; isn't that true?

Mr. SIENS. I assert the privilege.

That means the fifth amendment. Generally we allow witnesses to plead the first time, but the second time we do not have them go through the procedure.

Mr. ARENS. In these instances in which you have asserted in letters and articles, that you were not a Communist, your assertions were not under oath; were they?

Mr. SCRIBNER. That's the trickiest thing I ever heard of, and I will advise you on that.

(Witness confers with counsel.)

Mr. Scribner was the New York attorny for Mr. Siens.

Senator WATKINS. Just a moment. I call counsel's attention to the fact that he was only to give counsel to the witness when the witness asked for it. He is not supposed to coach him on his answers.

Mr. SCRIBNER. Does the Senator mean that if the witness does not ask for it, I cannot represent him?

Senator WATKINS. He means that exactly.

Mr. SCRIBNER. At the same time I will say that I will leave, because I serve no function. He has been denied counsel by the Senate committee. I will not sit by the witness under those circumstances.

Senator WATKINS. You are excused. We do not permit anyone to sit here and coach a witness. Just a moment.

Mr. SCRIBNER. Will you state for the record that I coached the witness?

Again I shall digress for a moment to assure the judges who are present that I am not trying to embarrass the senior Senator from Utah [Mr. WATKINS]. Nothing could be further from my desire. Probably I would have done the same thing—I do not know—although, in the vast experience I have had on the committee headed by the distinguished junior Senator from Indiana [Mr. JENNER], I have yet to throw anyone out of a hearing room.

Mr. Scribner was admitted to the practice of law in the State of New York, and was attempting to represent his client. I do not know anything about Mr. Scribner or his client, but Mr. Scribner was present. I shall go back for a moment and repeat:

Mr. WATKINS. You are excused. We do not permit anyone to sit here and coach a witness. Just a moment.

Mr. SCRIBNER. Will you state for the record that I coached the witness?

Senator WATKINS. Put him out.

(At this point Mr. Scribner was escorted from the hearing room.)

I do not know of any more sacred right than that of a person to be represented by counsel. I have never in my life seen a man ejected from a hearing room in a judicial or a quasi-judicial proceeding. When the senior Senator from Utah [Mr. WATKINS] apparently, like most cross-examiners, lost his patience, the attorney for the witness—not the witness himself—stated:

Will you state for the record that I coached the witness?

It was then that the senior Senator from Utah said:

Put him out.

The record then reads:

(At this point Mr. Scribner was escorted from the hearing room.)

I call attention to the fact, Mr. President, that the lawyer who was so vigorously rebuked and put out of the hearing room by the senior Senator from Utah is a member of the bar of the State of New York and of the Supreme Court of the United States. I believe he was admitted to the Supreme Court of the United States some 2 years ago.

I saw fit to question Mr. Scribner about this matter because I desired to bring out, for the benefit of the judges in this case, whether it helps or not, that any cross-examiner, whether it be the able chairman of the Committee on the Judiciary, the able chairman of the Subcommittee on Internal Security, or any other Senator who sits in the position of a presiding officer, might lose his patience.

Let me reemphasize the fact that I am not attempting to bring ridicule upon the senior Senator from Utah. I would never do that because, heaven knows, if one looks at my own record, perhaps he will find that I have done things in cross-examination for which I am sorry now, although I cannot recall them.

When I questioned Mr. Scribner on this incident, he stated as follows:

Mr. SCRIBNER. Well, frankly, to this day I am perplexed about that incident. I have been before many courts in the last 25 years and before other committee hearings but never have I had anything comparable to what happened that day. You know how angry it makes any lawyer to be accused of coaching a witness and that is why I asked the Senator if he was accusing me, on the record, of coaching my client and that is when he threw me out. I also recall one place where there was some statement or advice given by the committee counsel—

Referring to Mr. Arens—

that was completely erroneous in law and I tried to make some comment about that.

That is it, and I was very much upset at that time. However, not any more so than I have been on a number of occasions when trying a case in court but never before have I had any followup to an argument such as the followup to this one. I really felt that it was a very unfortunate incident. Lawyers, as you know, argue sometimes bitterly in court but it is always done with a basic sense of courtesy and as soon as you are out of the courtroom you carry on as though nothing had happened. I have been before committees many times and never had anything like that happen to me before, nor to a client of mine.

What action shall we take against the senior Senator from Utah? Surely his display of temper and his conduct toward the witness' lawyer was reprehensible. We cannot have one standard of conduct toward generals, another standard of conduct toward lawyers, nor yet another standard of conduct toward privates in the Army. In that connection, I am bound to speculate on whether or not the United States Senate would bring disciplinary action for the cross-examination of Private Dickerson, of Crackers Neck, Va., if he had been subjected to such a cross-examination as General Zwicker's. I am inclined to doubt it, Mr. President.

Please let me give another example of conduct in a committee of the Senate. I quote from a hearing which I shall not identify, unless pressed to do so.

I shall not reveal the name of the Senator involved, because he did not serve upon the select committee. He has done work for investigating committees of the Senate. If any Senator demands his name, I shall feel it my duty to the eight judges still remaining in the Chamber to hear this very important case to reveal the name of the Senator. But I wish, if possible, to bring these cases before the Senate so that we may better understand the trying times which a cross-examiner has, not only in private practice but also in the investigation of subversives or alleged subversives in the Government.

I may say that the Senator involved in this cross-examination is not a member of my party, so I do not wish to be accused of trying to protect someone on this side of the aisle. I quote as follows:

WITNESS. I'd like to ask my lawyer for some legal advice. Since these were seized out of the office over our protest, they are not voluntarily presented here.

SENATOR. They were seized at your office by committee investigators and deputy United States marshals under subpena. Is that what you meant?

WITNESS. I was subpenaed to appear with them here at 2 o'clock, but they were seized prior to 2 o'clock.

SENATOR. I know; you had been subpenaed to bring them before that.

LAWYER FOR WITNESS. He was not subpenaed to bring them before that. No subpena duces tecum was ever served upon them.

I need not inform the handful, less than a corporal's guard, of the judges trying this case who still remain in the Chamber that a subpena duces tecum calls for a witness to bring to the courtroom or the hearing room the papers and other personal effects concerned. Let me repeat the answer, and then continue.

LAWYER FOR WITNESS. He was not subpenaed to bring them before that. No subpena duces tecum was ever served upon them.

SENATOR. The president of the union was.

LAWYER FOR WITNESS. I might say this was a thoroughly outrageous interference——

SENATOR. Throw that damn scum out of here. Get rid of him.

(At this point, the lawyer for the witness was ushered out of the hearing room.)

My colleagues may perhaps wonder why I interrogated the members of the select committee who are lawyers with respect to the oath of office they took when they became members of the bar. Among other things, the record shows that an attorney is bound to defend his client, without any personal consideration to himself, and it is a tremendously important oath, which every lawyer respects. Why did I bring out that fact? It was to show my colleagues that human beings can, not only in congressional hearings, but in courtrooms, have their patience exhausted and do things I am sure they would not otherwise do, and would never do again.

I can cite my colleagues many instances, including some which occurred in my private practice of law, but I shall refer now only to Senators who have lost their patience and their tempers.

As I have said, in the instance I was citing, the lawyer for the witness was ushered out of the hearing room at that point. I am sure my colleagues would not imagine that the lawyer felt very happy about being thrown out, no matter how obnoxious he might have been, when he had taken an oath to defend his client.

The same Senator, whose name I am withholding, unless compelled to disclose it, ejected a witness in another hearing to which I can refer. He ejected him with these words:

Yes, and you are a disgrace to the United States. Take him out, Marshal.

I dislike bringing this incident before the Senate, because the interrogator was a man of high principles, one who was dedicated and devoted to his job. He was doing his level best to stop crime and corruption in the United States. I call the attention of the Senate to the incident merely for one reason, namely, once again to show my colleagues that no matter how able or competent a lawyer may be, he can lose his patience during the cross-examination of a witness before him.

The Senator I am now about to quote is gone. As I have said, I regret that I have to bring this incident, which is a matter of public record, to the attention of my colleagues, but I feel very deeply about what is happening or what may happen to the Senate of the United States, and I desire the judges to review the testimony. It has to do with a cross-examination by the late Senator Tobey, of New Hampshire, in the crime investigation hearings.

The Senator was questioning John A. Gaffney, superintendent of New York State police—part 7 of the crime hearings, page 425, February 13, 1951. Gambling in Saratoga was the subject, and in particular the failure of Superintendent Gaffney to act on a report of such gambling. Prior to the following exchange, Gaffney had disclaimed responsibility for Saratoga gambling as being beyond his jurisdiction as a State officer.

Senator TOBEY. Just let us talk about Saratoga. Your own deputies brought the information to you.

Mr. GAFFNEY. That is right.

Senator TOBEY. You certainly would look like a plugged nickel to me as superintendent of State police.

Mr. GAFFNEY. Thank you very much.

I shall proceed with that in just a moment, but I should like to digress. The superintendent of the State police of the largest State in the Union was being interrogated with respect to what one of our fellow members thought was a dereliction of his duty. I do not think that a brigadier general, with regard to his relations with a major, is entitled to any more consideration than is the head of the State police of the largest State in the Union with respect to some of the activities of certain of his underling officers. After Mr. Gaffney thanked Senator Tobey, Senator Tobey then continued:

Senator TOBEY. What do you suppose the public at large would think of a man who did not report illegal doing to the Governor, after he had sworn to uphold the law? What hope is there to keep crime down in this country if the law-enforcement officers do not function properly?

Mr. GAFFNEY. Well, sir, I do not like to be abused. I am an honest man, and I resent that.

Senator TOBEY. I am not abusing you. I am just telling you the facts.

Mr. GAFFNEY. Well, I resent it.

Senator TOBEY. Well, you can resent it until that well-known place freezes over. The country will want to know what kind of a plugged nickel you are.

Mr. GAFFNEY. I am not a plugged nickel.

Senator TOBEY. You are no good in my judgment, you are below par, and you are a counterfeit of what a good law-enforcement officer should be. Just look at a picture of yourself, just look at yourself, and search your own conscience.

Mr. GAFFNEY. I am an honest man. I will have you understand that.

Senator TOBEY. You are a passive man.

Mr. GAFFNEY. I am not.

Senator TOBEY. As a law-enforcement officer, you are no good (pt. 7, p. 425).

The following quotation from the hearings of Friday, March 16, 1951, which will be found on page 1246, also had to do with the situation in Saratoga:

Mr. GAFFNEY. They have a police department there.

Senator TOBEY. You say there is a police department there. You know that this man Rox isn't worth a continental.

Mr. GAFFNEY. I pass no opinion on any policeman at all.

Senator TOBEY. Of course, you know that. We know them. Why didn't you——

Mr. GAFFNEY. I know them.

Senator TOBEY. You say it wasn't your duty. If I were the Governor of this State, I would give you just 5 minutes to get out of the place or I would kick you out.

That shows my colleague how a great and able public servant can lose his patience and temper when engaged in examining or cross-examining a witness, which is the most difficult branch of the practice of law that I know of, the art of cross-examination, I may say to the Senator from North Dakota [Mr. LANGER].

I now proceed to another subject.

Senator Burton K. Wheeler, who exposed the alien property frauds, and conducted many other investigations, is quoted in a column by John O'Donnell, printed in the New York Daily News of October 1, 1954, and I can say to the Senate that Senator Wheeler himself has told me of this; and I have interrogated members of his family, to see whether, in fact, this statement is a correct one, because I wish to try to be fair with everyone. Senators who have served here for many years certainly know that Senator Burton K. Wheeler is one of the greatest lawyers ever to serve in this body, and today he enjoys a splendid practice in the Nation's Capital. I now quote from a statement made by him:

If they think that Senator MCCARTHY has been abusive and harsh to evasive and dodging witnesses, let them go back and read the transcripts of my examinations. I went far beyond MCCARTHY. So did the late Senator Jim Reed, of Missouri, in his cross-examinations. And bear this in mind. We were only trying to uncover graft and corruption. Treason and betrayal of the country is far more serious than grand larceny and fraud.

He was referring, I think, to his questioning of the then Attorney General of the United States, Harry Daugherty, and the head of the Alien Property Division, a man by the name of Miller, I believe, at that time a highly respected man from the State of Delaware, as I understand. It seems that Mr. Miller was convicted. Mr. Daugherty, I believe, had two mistrials, and finally the case was dismissed.

CONCLUSIONS OF LAW

Before concluding my remarks concerning the law and the facts of this action, Mr. President and respected colleagues, I want to briefly review the main points of law concerning which I have spoken at some length. These points are of extreme importance, and must be seriously considered. They have no bearing on personalities involved in this issue. They are for the guidance of the Senate in this case and in any similar case which may arise in the future.

First. The Constitution does not authorize a censure action, as such. Established precedents of the Senate provide for punishment for disorderly behavior, after committee consideration of what action should be taken, and subsequent discussion and vote on the floor of the Senate. The Bingham case was a departure from the established Senate procedure, and, in my opinion, should not be followed in this case.

Second. The wording of Senate Resolution 301, 83d Congress, states no cause for disciplinary action by the Senate as contemplated by the Constitution. It fails to comply with the sixth amendment to the Constitution, in that it does not inform the accused Senator of the nature and cause of the accusation. The essential element of the alleged offense of the Senator from Wisconsin is not stated in the indicting resolution—to wit: disorderly behavior. In the case of *United States* v. *Potter* (56 F. 83), the court said:

In order properly to inform the accused of the nature and cause of the accusation, within the meaning of this amendment and of the rules of common law, not only must all the elements of the offense be stated in the indictment, but they must also be stated with clearness and certainty.

In other words, if a Senator is to be punished for disorderly behavior, as is permitted under the Constitution, he must be charged with disorderly behavior, not with conduct unbecoming a Senator or conduct contrary to senatorial traditions.

Third. Congress has the constitutional power to make all laws necessary and proper for carrying into execution the powers vested by the Constitution in them. They may provide by law for punishment of contempts, of affrays or tumult in their presence, but until the law be made, it does not exist, and does not exist from their own neglect.—See reference Jefferson's Manual on page 5 of this brief.

Mr. HICKENLOOPER. Mr. President, will the Senator from Idaho yield for a question?

The PRESIDING OFFICER (Mr. FERGUSON in the chair). Does the Senator from Idaho yield to the Senator from Iowa?

Mr. WELKER. I am happy to yield, although I know that the 11 judges now present are very anxious to have me suspend. However, I am glad to yield.

Mr. HICKENLOOPER. I thank the Senator from Idaho.

In the first place, I wish to say I think the Senator from Idaho has made a most exhaustive study of the situation involved in this matter, and I commend him for the thoroughness of his examination of it.

For my own information, because I have not looked up this point, and in view of the fact that the Senator from Idaho has spoken of the traditions of the Senate, I should like to ask him whether, in the history of the Senate, the Senate has ever voted official censure or official condemnation for words spoken by a Senator either on the floor of the Senate or, in his official capacity, in committee activities, or spoken otherwise?

Mr. WELKER. That never has happened, insofar as I have been able to ascertain from the research I have conducted.

Mr. HICKENLOOPER. I wish to say to the Senator from Idaho that I certainly agree with him that words of violence and intemperance have been spoken from time to time by Members of the Senate either in committee or on the floor of the Senate; and over the years, during my service here, I personally have heard some of them spoken. Let me say there is a remedy which will reach spoken words that are considered to be offensive.

Mr. WELKER. Without a doubt.

Mr. HICKENLOOPER. The remedy is to call the Senator to order, if the words are spoken on the floor of the Senate. The rule forbids such a Senator to proceed, after being called thus to order, except upon motion authorizing him to proceed in order. I have seen that sanction imposed on certain occasions during my service in the Senate.

However, so far as I know, there is no precedent in the history of the United States Senate wherein official notice has been taken, by way of condemnation or official criticism or censure, of words spoken by a Senator either on the floor of the Senate or in committee or at any other place. I am trying to get some of these matters clear in my own mind, and I should like to ask the Senator from Idaho about that point.

Mr. WELKER. The distinguished senior Senator from Iowa, outstanding lawyer that he is, is eminently correct, judging from the research that I have made. I should like to be apprised of any case in which any Senator has ever been censured or been the subject of disciplinary action of any kind for words spoken either on or off the floor of the United States Senate, other than to receive a minor slap on the back of the hand, so to speak. I refer to the procedure under rule XIX, paragraphs 2 and 4, which requires a Senator who is called to order to take his seat, whereupon he is not allowed to proceed until a motion to permit him to proceed in order is made and agreed to. All Senators agree that such an act is merely perfunctory; but that is the customary procedure in such a case.

Mr. HICKENLOOPER. Then is the Senator from Idaho arguing somewhat along this line: that the ball game has always been played under the rule that one has to hit the ball within the base lines, or else it is a foul; but suddenly, after the play has commenced and after the game has gone on for a long time, we are told, "Well, we have changed the rules, and now we will apply a new rule"—one which never in the history of the Senate has been applied or attempted to be applied. Is that a brief summation of a part of the argument the Senator from Idaho has been making?

Mr. WELKER. The Senator is absolutely correct. If he had been present yesterday he would have heard me argue at length that Senator MCCARTHY is not the issue in this case. Day after tomorrow it might be the Senator from Iowa, the Senator from North Dakota [Mr. LANGER], the Senator from Florida [Mr. HOLLAND], or any other Senator. There is involved the precedent of picking out one man and making him the whipping boy. Such a precedent has never been heard of before in the United States Senate.

Senators will recall that I brought to the attention of the judges yesterday the fact that actual physical violence was involved in the case of four United States Senators. Those cases were publicized all over the United States—yes, all over the world—and no man had the temerity even to suggest a censure resolution based upon their conduct, even though the facts were admitted by all. Had a censure resolution been brought forth, it would have been within the limitations of the Constitution of the United States, and would have been limited to a charge of disorderly behavior.

Mr. HICKENLOOPER. I thank the Senator. I was not trying to put words in his mouth. I was asking questions because, as I understood a part of his argument yesterday, it was based on the theory that there is an entirely unbroken line of precedents in the experience of the past 170 years; and that no Senator has ever been subjected to official censure because of words spoken. That is not the principle which is sought to be invoked in this case. What is sought is contrary to the unbroken line of precedents of the past. I understood that the Senator touched on that point yesterday in a part of his argument, and I wished in a part whether or not he was attempting to develop that field.

Mr. WELKER. That is correct. I refer to it in my statement of conclusions.

Let me say to my distinguished and able friend, the senior Senator from Iowa, that I am not so much concerned about what happens to the junior Senator from Wisconsin. This is not a fight among individual Senators. I do not know how many people dislike me—I hope not many. I have attempted to help my colleagues in the interest of the preservation of the great precedents of this body.

Mr. LANGER. Mr. President, will the Senator yield for a question?

Mr. WELKER. I am happy to yield to my friend, the senior Senator from North Dakota.

Mr. LANGER. I, too, wish to compliment the Senator on the very masterly address he is delivering. I wish to carry the argument of the distinguished Senator from Idaho one step further. In all the research made by the distinguished Senator from Idaho, has he discovered any case in the entire history of the Senate in which any Senator has ever been censured for refusing to accept an invitation to appear before a committee?

Mr. WELKER. There is no such case, let me say to my distinguished friend, the great lawyer who is the chairman of our Judiciary Committee.

On the other hand, I have related to this body of judges, which now consists of about 10, including 1 member of the select committee, that the great Robert M. La Follette, Sr., loved by me, and by the immortal William E. Borah, of my own State, defied the Committee on Privileges and Elections, slammed the papers down on the table, and said, "I will say good morning to the committee." No on dared to attempt to censure him.

Mr. LANGER. Let me say to my distinguished friend further that, as I remember, the senior Senator La Follette even said he would defy a subpena in case he was subpenaed to appear before a committee, on the ground that it had no authority to compel a Senator to appear before any group of Senators.

Mr. WELKER. The Senator is correct.

Mr. CASE. Mr. President, will the Senator yield?

Mr. WELKER. I am glad to yield to my friend from South Dakota. Again, let me say that I am becoming very weary. I hope I can answer his question.

Mr. CASE. I merely wish to ask the question if, in the instance referred to—and I am asking purely for information—Senator La Follette combined derogatory language with his refusal to cooperate with the committee?

Mr. WELKER. I do not suppose that would have had any possible bearing on the case. As in the case before the Senator's committee, the accused Senator had been denied the right of cross-examining his accusers. The La Follette case was a far more vicious case. That great man had been accused of being pro-German and of giving aid and comfort to the enemy. When Atlee Pomerene, the great Senator from Ohio, asked him to appear, Senator La Follette certainly "laid it on the line."

The Senator from South Dakota refers to derogatory language. The select committee had better start preparing a resolution of censure against me because when I resigned from the Gillette Subcommittee on Privileges and Elections my language certainly could not have been interpreted to mean that I was the most temperate Member of the United States Senate.

Mr. CASE. Mr. President, will the Senator further yield?

Mr. WELKER. I yield.

Mr. CASE. The point I sought to bring out was that in the first count in this case there are two elements, namely, the failure to help the committee to function and the use of abusive language, which the committee felt combined to obstruct the legislative processes of the Senate. I have previously pointed out during the day that in some cases one element is absent and in other cases the other element is absent. Very appropriately, the Senator from Idaho has cited a number of cases for the consideration of Senators. In the La Follette case there was apparently a definite rejection of cooperation with the committee, but perhaps not the combination with abusive language. In some of the other cases the Senator has cited there was abusive language, but not the failure to cooperate. It must always be a case for judgment as to whether the denunciation of the committee and the failure to cooperate are of such degree that, in the terms of the words used by Mr. Williams, counsel for Senator McCarthy, in the memorandum brief filed with us, it amounts to an obstruction of the legislative processes of the Senate.

Mr. WELKER. Let me reply to my distinguished friend, whom I respect highly, that there has never been a precedent in the 165 years of this Republic wherein a resolution of censure was directed against a Senator for language used, intemperate or otherwise. If such were not the case, I wonder what position we would be in, in the case of the man we are trying today before this great body of judges, now consisting of about 8 or 9, when all 96 should be present, if every Senator who had used abusive or intemperate language against the junior Senator from Wisconsin should have a censure resolution brought against him. Heaven knows. We would work around the clock, 24 hours a day, because, as Senators know—and I am the first to admit it—the junior Senator from Wisconsin is a controversial figure. Certainly intemperate, vile, and vicious language has been used against the junior Senator from Wisconsin, directly and by implication.

I further say to the Senate that from the bottom of my heart I am wondering, if this precedent is established, where in heaven's name we will go and what will happen to those who accused the Senator from Wisconsin in the amendments to the resolution of being a liar, and who used other intemperate language, when he accused Annie Lee Moss of being a Communist. That was the No. 1 charge on which they expected to "get" the junior Senator from Wisconsin.

Mr. CASE. Of course, they did not get anywhere with the select committee on that count.

Mr. WELKER. Yes; and does the Senator know why they did not get anywhere? It was because the Senator from Idaho documented that case on August 2, before the select committee even looked at the case. Two days thereafter the Army discharged her. I refer the Senator to the U. S. News & World Report.

Mr. CASE. The Senator from Idaho performed a very valuable service to the country and to the Senate in that respect.

Mr. WELKER. I wish to say to my distinguished friend from South Dakota—and this is not an attempt to gain votes—that I would as readily do what little I have done, as I said yesterday, for a man whom I detested, as I would for the junior Senator from Wisconsin.

I am a great believer in justice. I see before me a Senator—and I shall not name him, but all Senators know him—who has not once but twice come into the Senate with the shadow of nearly every sort of dishonest political charge made against him that could possibly be made against any Senator. Yes, committees even reported that he not be seated and that he be thrown out of the Senate of the United States. He is getting along in years now. He knows that I will stand up for him any day of the year.

What happened when the sovereign State he represents sent him back here with the overwhelming majority he always enjoys? I do not know how many hundreds of vicious and vile charges were filed against my friend.

As I have said repeatedly, the greatest honor that ever came to me in the practice of law was when that distinguished man came to me, a young man in the practice of law, and said, "Herman, here are some charges that are unfounded. Will you represent me before the Senate?"

I told him it would be the greatest honor that had ever come to me to do what little I could to defend the good name of a man I loved and always will love.

That is the kind of Senate I always want to see preserved. I hope when the wolves go after me, as surely they will if the pending resolution is adopted, that I shall have someone who will stand up and say a good word for me. Perhaps I have not done much, but I have done my best.

In concluding my remarks, I should like to say that this group of judges certainly is patient. There are now 8 judges in the Chamber. That is not many, out of the 96 who may establish here a precedent that will haunt us the rest of our lives. I am not afraid of what might happen to me. I am afraid of what might happen to the great Senate of the United States. As I have said, if a censure action be deemed advisable as a disciplinary process of the Senate, the Senate should set up such a process by its own rules or laws, but until then, censure, as a procedure in itself, does not exist. Remember that the Benton-Foote and Tillman-McLaurin cases were not censure proceedings, censure being only considered in those cases as a means of punishment for disorderly behavior.

Fourth. Judicial standards of American jurisprudence should apply in an action of this nature.

I like to refer again to the great discourse made on this subject matter by the distinguished Senator and great lawyer, the junior Senator from Texas [Mr. Daniel].

Such standards contemplate a written accusation in compliance with the sixth amendment. They include a fair and impartial trial under the law as it now is. The entire proceeding carries a supposition of innocence of the accused until he is proven guilty beyond a reasonable doubt. The burden is on the accusers to establish the guilt of the accused beyond a reasonable doubt. He, the accused, is entitled to be confronted with the witnesses against him, and to have counsel for his defense.

Fifth. Charges against the Senator of a criminal nature, such as income-tax violations, Federal and State Corrupt Practices Acts violations, and other charges made by the Hennings committee should not and could not be considered by the Senate in this action. Precedent against considering such charges was long ago set in the Humphrey case and in the King-Schumaker case heretofore cited. The Senate was held to have no jurisdiction and for such offenses a Member, like any other citizen, is amenable to the courts of proper jurisdiction.

Sixth. The law is not established concerning punishment of a Member for disorderly behavior prior to his election. The House Judiciary Committee considered such a procedure and stated its opinion to be that such action would be an abuse of power and an excess of constitutional authority.

Mr. President, in order to expedite matters, I ask unanimous consent to have printed at this point in my remarks the learned discourse on the problem before us by Mr. James M. Beck, doctor of laws, and a former Solicitor General of the United States. I should like to read it again, but because I have only a private-first-class guard to listen to me at this time, I think it would be useless. The book to which I refer is The Vanishing Rights of the States from which I quoted yesterday afternoon. To my mind it is a profound bit of authority, and I like it very much.

There being no objection, the matter was ordered to be printed in the Record, as follows:

It is, however, equally clear, that the act which would justify his expulsion, must have taken place since his election. What he did prior to his election and qualification has been passed upon by the people of his State. In a political sense, it is res adjudicata. A candidate for the Senate might have been guilty of embezzlement before his election, but the right of the people of that State to send an embezzler to the Senate, if it sees fit, is clear. Such decision is the sole right of the State.

It must not be supposed that the general grant of power to each branch of Congress to determine the qualifications of its Members gives them an unlimited discretion in determining the question of membership in the body. The general language which the Constitution uses must be read in connection with the entire instrument and, thus read, it is unreasonable that the power to judge of the qualifications of its own Members was, or is, intended to destroy the rights of the States to select their own representatives in Congress.

The Supreme Court has said, in the case of *U. S.* v. *Ballin* (144 U. S. 1):

"The Constitution empowers each house to determine times and rules of proceedings. It may not by its rules ignore constitutional restraints, or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained."

To permit the Senate to expel a Senator on the ground that, before his election, he had been either a fool or a knave, would revolutionize our theory of constitutional government. All this had been passed upon before the Constitution was framed in the great John Wilkes controversy.

The next pertinent provision is the last paragraph of section 6, which reads as follows:

* * * * *

The author has thus quoted every pertinent provision of the Constitution. Reading them together, it seems too clear for argument that each State has the right to select from its people any representative in the Senate that it sees fit, irrespective of his intellectual or moral qualifications, and that the only limitations upon such choice are, that he shall be 30 years of age, a citizen of the United States for at least 9 years, an inhabitant of the State, and that he shall not hold any office under the United States, and that he shall not have engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, unless in the latter contingency, the Congress, by a vote of two-thirds, shall remove such disability.

In all other respects the right of the State is absolute and unimpaired. A State may have selected a Member of the Senate or secured his nomination by unworthy means. He may have spent more to secure such nomination than many would think proper or legitimate. He may be intellectually unfitted for the high office, and his moral character may, in other respects, leave much to be desired.

The people of the United States may justifiably think that the State has sent to Congress an unfit man, who could add nothing to its deliberations, and whose influence may well be pernicious. Nonetheless, the State has the right to send him. It is its sole concern, and to nullify its choice is to destroy the basic right of a sovereign State, and amounts to a revolution.

In this matter we must not be pragmatists. If the Senate has the right to nullify the action of a sovereign State in this matter for good reasons, it has equally the right to nullify it for bad reasons. The State may send a representative to the Senate, who has the intellectual ability of Webster, and the unimpeachable morality of George Washington, but he may be a member of a political party which, at the time, is in a minority. If the Senate rejects such a man it is possible that the plain usurpation of the power of the State cannot be questioned in any judicial proceeding. The sole remedy may be, as in the case of John Wilkes, in an appeal to the people, but while the victim might represent the majority of the people of his State, his party's representation in the Senate might well be only a minority, and thus, the right of one State to select its own representative could be nullified as long as a majority of the Senate, composed of the representatives of other States, saw fit to refuse him his credentials, or as long as two-thirds of the Senate saw fit to expel him.

If such a power exists, then the greatest of all States' rights has become little more than a scrap of paper.

Mr. WELKER. Mr. President, there is no precedent whereby a Member can be punished for acts prior to his election. The select committee stated "from an examination and study of all available precedents * * *" it was their opinion that the Senate has such power. A study of the citations made to support such a conclusion fails to disclose a single precedent concerning punishment of a Member for acts prior to his election. The Senate Subcommittee on Privileges and Elections which considered the charges against the junior Senator from Wisconsin for a period of almost 2 years prior to his election held the opposite view to that of this select committee. See page 52a of the report of the investigation under Senate Resolution 187, 82d Congress.

I refer to the Gillette-Hennings committee, which made its final report to the Senate. I read:

A number of its aspects have become moot by reason of the 1952 election. Such facts therein as were known to the people of the States particularly affected have been passed upon by the people themselves in the election.

This, to me, seems to be fundamental, good, common horsesense.

Should the opinion of the select committee prevail in this action, and it is only an opinion with no backing of established precedent, countless disciplinary actions could be instituted, including expulsion of Members for acts committed at any time in the past. Elections could be nullified and State electorates could be thwarted in their choice of Senators. To say the establishment of such a precedent would be dangerous would be only mildly expressing the possible disastrous effects of such a policy.

The General Zwicker incident is a question of fact more than of law. The true facts cannot be adjudged by the printed testimony. More important than the printed words is the demeanor of the witness on the stand, his inflections of voice, his manner of testifying, whether he manifests any bias or prejudice for or against the one accused. Yet the select committee arrived at a conclusion without consideration of these factors and the Members of the Senate will have to do likewise, if they vote to censure.

Mr. President, in interrogating the members of the select committee with respect to what, if any, consideration they gave to the man who raised his hand to God and swore that within 12 to 14 inches of his ear he heard General Zwicker call the man on trial, the junior Senator from Wisconsin, an s. o. b., I brought that out to show the attitude, the demeanor, and so forth, of the witness. I cannot believe we can do a retake of the testimony of a witness on the stand. If so, I can assure the members of the select committee that I should like to go back to the practice of law and do a retake on a few of my mistakes, because I could dress them up very nicely and I would not make the mistakes I made at the trial.

I asked my distinguished friend from North Carolina [Mr. ERVIN] if he had given any consideration to what General Lawton stated with respect to whether there was any animosity between General Zwicker and the junior Senator from Wisconsin. It was a conclusion of law, but the select committee has used conclusions, hearsay, and about everything I know of in the books that would be excluded in a court of justice.

I think my friend from North Carolina said in response to my question that he had heard it discussed that General Lawton had the impression that Zwicker did not like the junior Senator from Wisconsin or the committee.

Now, Mr. President, I am nearing the end of this extensive presentation of my views on the law and the facts concerning the proposed censure of Senator McCARTHY. I have tried conscientiously to present the law as it is and as it has been construed in past similar incidents.

If I am denied the right to be heard by all the judges I am proud of the fact that Joe and Jean McCarthy are friends of mine. If I am denied such right to be heard, then justice has indeed gone a long way down the drain.

I have tried to keep personalities out of this matter. I knew the allegation would be made that the "Charlie McCarthy" of JOE McCARTHY was here trying to defend him. Under similar circumstances I would defend, with any ability I may have, any fellow Senator upon the floor of the Senate, regardless of political faith or of the State whence he comes.

I have tried to show the inherent danger in upsetting the old precedents, in disregarding the admonitions contained in Jefferson's Manual, in the sound view presented by the House Judiciary Committee. I sincerely hope that a code of ethics may be adopted by this body so that Members of the Senate may know their rights. So that they may not be threatened by censure for acts which are not specified to be censurable. So that a Member will not be tried according to the passions of the moment, and on charges originally prepared by a committee whose headquarters are across the street in the Carroll Arms Hotel.

That was established by the fine cross-examination by our distinguished and able majority leader in either the last part of July or the early part of August.

Until such a code is adopted by the Senate, let us abide by the established precedents, under the Constitution, and dismiss this attempted radical departure from precedent as a nullity from its inception.

After all, the American people have spoken. The junior Senator from Wisconsin always will be a controversial figure, as will be many others among us. We shall have our friends, and we shall have our enemies.

The people of the Nation, by their vote last November 2, took away from the junior Senator from Wisconsin his chairmanship of the Senate Permanent Subcommittee on Investigations. But, as a personal observation, I hope that no Member of the Senate—and, in my opinion, they are all great Americans—ever will lessen his attacks upon and

his efforts to defeat the tyranny which would destroy the freedom of our country. The first freedom which such tyranny would seek to destroy is the greatest deliberative body in the world, the United States Senate.

Please remember, Mr. President and my respected colleagues, that any one of us today sitting as a judge in this action may tomorrow, if the theory of the select committee shall be upheld, be sitting as a judge by virtue of an offense undefined, not proscribed, by rule or law, and regardless of the time of its occurrence.

Assuming there might be a landslide victory for Democrats or Republicans—let us assume, for the purpose of argument, that there might be in the Senate only 20 Republicans, and 76 Democrats, or vice versa—if such a precedent should be set as the adoption of the pending resolution would establish, God help any future Senator who might raise his voice in a manner objectionable to the militant opposite party. I pray that that will never happen. I feel that it never will happen, because I am confident that the people of the sovereign States, whose rights must be respected, will send to the United States Congress only great Americans, both Democrats and Republicans, who would not stoop to such a low level.

I heard it said by my friend, the distinguished junior Senator from North Carolina [Mr. ERVIN], when he closed his remarks—and it sounded to me like the argument I have made so many times when I have attempted to defend the defenseless and the oppressed—Will the Senate of the United States be men and women? In effect, he said, "Will you have the nerve and the integrity to go through with what millions of Americans want you to do?"

Let Senators take a look at their mail from throughout this land. The mothers and fathers of 3 million American boys—yes, truly, I can say at least 30 million people—are watching the deliberations of the Senate today. They want nothing done which might give aid and comfort to the enemy.

Let there be no misunderstanding. I would never accuse any select committee of doing that. I am accusing the Kremlin of it. If they could divide this great body of ours, nothing would give them more happiness, nothing would give them more power.

Let us not indulge in sheer folly. Let us, I pray, quit name calling. Let us bind up our wounds, if that is possible. I have seen them bound up before by statesmen much more able than is the man who is on trial today. I have heard the immortal Bob Taft abused and maligned upon the floor of the Senate by statesmen of great repute. But after the heat and passion of debate those men realized that they were all Members of the greatest deliberative body in the world.

We cannot allow petty folly to divide us. God help us, so that it never will divide us.

There may be those among us who might in the heat of passion think it is wise and political to censure or that it is wise and political to invite censure. But God give them strength to come to their senses, because they know not what they think.

Let us, I pray, leave this body as we found it. Let us not destroy it. In my concluding remarks I wish to say something that reflects my feeling from the bottom of my heart. It is a great honor to be a Member of this body. I have had my little differences, but I know that I have many friends in the Senate.

Mr. President, I wish to read what was said by a Senator who was leaving this body in 1917. I cannot improve upon his language. The gentleman was Senator Clapp. His remarks are reported on page 4913 of volume 54, part 5, of the CONGRESSIONAL RECORD for the 64th Congress, 2d session. Oh, how true this is, Mr. President:

> I believe the American Senate is the grandest body of men assembled upon this earth. We have our differences, our struggles, our rivalries, and our ambitions. But back of all that there is a genuineness of friendship which I doubt can be found elsewhere in the association of men with men. That association, in its closer and daily relations, I am about to terminate. I shall look back with pleasure to these associations and the kindnesses that have been shown me by one and all. I wish for one and all the full measure of happiness and success and with no regrets save the regret of separation I shall ever remember with affection and kind regard my association and the kindness with which I have been treated by my fellow Senators.

I wish to say to the judges, especially the few who have honored me by listening to this long discourse on what I consider to be the law, I appreciate their attention from the bottom of my heart.

I hope that I am correct in the stand I have taken.

I have about ended my first, and I hope my last, speech upon the subject before the Senate although probably I could make further research into the subject matter. The case is in the hands of the judges, who are sworn to hear the evidence and try the facts. Let not bitterness be in your hearts. Let the spirit of the blind goddess, who holds the scales of justice in equal balance, govern your deliberations, for this time, and for all time to come.

I thank my colleagues. I respect them one and all.

THE CASE OF JOHN PATON DAVIES

Mr. JENNER. Mr. President, I issued a statement yesterday because I was unable to obtain the floor. At this time I ask unanimous consent to have the statement prepared by me printed in the body of the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE CASE OF JOHN PATON DAVIES

(Statement by Senator WILLIAM E. JENNER, chairman, Senate Internal Security Subcommittee)

I have been asked to comment on the dismissal of John P. Davies, Jr., by Secretary of State John Foster Dulles. Of course the evidence available to the State Department Review Board may have differed in scope from that surveyed 2 years ago by the Internal Security Subcommittee under the chairmanship of the late Senator Pat McCarran, but I do know that the particular episode involving Mr. Davies which moved the subcommittee to investigate was considered at great length by the Board. Knowing what that episode entailed, I am greatly surprised by the nature of the attack by columnists on the final decision by Secretary Dulles to dismiss Mr. Davies. These columnists would have us believe that Mr. Davies was dismissed because of an expression of his views that proved to be erroneous. The matter is much more serious than that and involves Mr. Davies' acts.

In November 1949, John Paton Davies, Jr., who was then a member of the Policy Planning Board of the State Department, summoned two officers of the Central Intelligence Agency and recommended to that Agency that six named persons be established as a unit to give guidance to a proposed CIA operation that was classified as top secret. The six persons were: Agnes Smedley, Anna Louise Strong, Mr. and Mrs. John K. Fairbank, Edgar Snow, and Benjamin Schwartz.

Agnes Smedley, Anna Louise Strong, John K. Fairbank and Edgar Snow have since been shown by the record of the Internal Security Subcommittee to have been involved in varying degrees with Communist activity. At the time it will be recalled that Miss Smedley had just been cleared by the Pentagon after General Willoughby, General MacArthur's intelligence officer in Tokyo, had linked her with Soviet espionage activity. This should be stated because since that time, the Internal Security Subcommittee has adduced proof of Miss Smedley's Communist activities, and she has died and revealed that the executor of her estate was the Chinese Communist General Chu Teh, to whom she willed all her property. Now it is generally conceded that General Willoughby's charge was completely justified, but in 1949 a general in the United States Army was publicly reproved by the Pentagon for saying what has since been accepted by all as the truth. Such was the official attitude toward Miss Smedley at that time.

Mr. Davies further proposed that John K. Fairbank be the head of this unit that was to give guidance to the CIA. After the CIA officers heard his proposal, Mr. Davies assured them that two of these people, at least, John K. Fairbank and his wife, were not Communists but were only very politically sophisticated people. Other contemporaneous memoranda, moreover, revealed to the subcommittee that Mr. Davies likened all of these people to a certain sophisticated political officer then with the CIA who was in fact vigorously anti-Communist. He did this by way of assuring the CIA officers of the merit of his proposal. This whole proposition thus belied the relationship of double agents.

When Admiral Hillenkoetter, then head of the CIA, heard about the project, he got in touch with the FBI to check the security standing of the personnel involved. After he had talked with J. Edgar Hoover, he summarily rejected the project. Shortly thereafter, Admiral Hillenkoetter left the CIA. Subsequently at least four other officers in the CIA who opposed the Davies recommendation were eased out of that organization, no one of whom has been defended by anyone so far as I can learn.

When the Internal Security Subcommittee, under Senator McCarran, looked into these facts, the Senators were shocked by what they learned. The Senators on the subcommittee were clearly convinced that what Mr. Davies was recommending was not a double-agent operation, for the facts did not allow

such a conclusion. When Davies himself was questioned about the episode, his testimony was found to be so unsatisfactory that the 7 senators on the subcommittee unanimously concluded that he told at least 7 untruths, and referred the record of the case to the Department of Justice with a recommendation that it be laid before a grand jury.

In dismissing Mr. Davies, Secretary Dulles stated:

"I have reached my determination as the law requires on the basis of my own independent examination of the record. One of the facts of that record is the unanimous conclusion of the members of the security board that the personal demeanor of Mr. Davies as a witness before them when he testified in his own behalf and was subject to examination did not impose confidence in his reliability and that he was frequently less than forthright in his response to questions. Conclusions thus arrived at by an impartial security hearing board are, I believe, entitled to much weight, particularly when those conclusions are consistent with the written record which I have examined."

When Gen. Bedell Smith testified under oath before the Internal Security Subcommittee, he stated that he regarded Mr. Davies as a security risk but acknowledged that he had defended Mr. Davies' loyalty—a distinction made by the head of the CIA that some Senators had difficulty reconciling with the high standard that should be set under such circumstances. General Smith explained his position by saying he did not consider any person to be disloyal unless he was provably guilty of treason.

These facts and others all belie the present criticism of Mr. Davies' dismissal, which seems to be growing daily. If the investigative processes of the Senate are allowed to function, I should like to see the whole case openly reviewed by the Internal Security Subcommittee; perhaps then we would more clearly understand what forces are trying to stifle investigation of security risks and the elimination of such risks from our Government.

RECESS TO 11 A. M. TOMORROW

Mr. KNOWLAND. Mr. President, I now move that the Senate stand in recess until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 7 o'clock and 2 minutes p. m.) the Senate took a recess until tomorrow, Thursday, November 18, 1954, at 11 o'clock a. m.

EXTENSIONS OF REMARKS

International Scientific Cooperation

EXTENSION OF REMARKS
OF

HON. ALEXANDER WILEY

OF WISCONSIN

IN THE SENATE OF THE UNITED STATES

Wednesday, November 17, 1954

Mr. WILEY. Mr. President, science has shattered the barriers of space and time in this atomic age. Here in this country, the overwhelming proportion of our scientific effort is devoted to creating a better, more prosperous, more fruitful life for our people and the peoples of the world. Some of our scientific effort is necessarily devoted to the needs of our own national defense. But much effort is also expended, in cooperation with the scientists of other nations, in exploring the phenomena of this planet—the physical aspects of the sky, of the waters, and of the ground.

I send to the desk a summary statement describing United States cooperation with the forces of international science. It points out, incidentally, that—

Each of the fields in the * * * international program (for example, meteorology, oceanography, ionospheric, physics and cosmic rays) is characterized by its global nature—

I emphasize "its global nature"—

and its relation to solar energy and disturbances.

I point out incidentally that our forthcoming expedition to the Antarctic is a part of our program of national scientific exploration, as well as of international cooperation.

I ask unanimous consent that this scientific summary be printed in the Appendix of the CONGRESSIONAL RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY ON INTERNATIONAL SCIENTIFIC COOPERATION

The international geophysical year designates a major research effort to be conducted cooperatively by many nations: 29 are now participants and others are expected to join.

This program encompasses a many-faceted investigation of our planet: the surface and core of the earth, the oceans and their depths, the atmosphere.

These features of our environment, particularly the atmosphere and the oceans, affect the daily lives of all individuals, the transactions of commerce and industry, the safe conduct of land, sea, and air travel and transportation, and the range and reliability of all radio communication and navigation systems. This environment controls, in these and many other ways, both the civilian and defense welfare of the Nation.

Our knowledge of most of these fields is presently inadequate. In large measure this stems from the worldwide nature of geophysical events.

Storms forming off the east coast of Asia may cause a cold wave to surge over the United States a week later, which may in turn create a new storm in the mid-Atlantic and subsequent floods and snow avalanches in Europe. Solar flares create magnetic disturbances and may cause failure of all radio communications over an appreciable region of the earth. Each of the fields in the proposed international program (for example, meteorology, oceanography, ionospheric physics, and cosmic rays) is characterized by its global nature and its relation to solar energy and disturbances. To advance in these fields accordingly requires measurements and observations all over the world. These measurements, for maximum results with minimum effort, must be made simultaneously by all nations so that the worldwide pattern in each field can be established and so that the relationships between fields can be determined. These technical considerations led to the proposal of the International Geophysical Year, and the period of time chosen for this intensive research program, 1957–58, was chosen largely because it coincides with a period of maximum sun-spot activity.

The program of the United States was formulated by the United States National Committee for the International Geophysical Year. This committee was established by the National Academy of Sciences—National Research Council as the adhereing body of the United States to the International Council of Scientific Unions. The committee was assisted in its plans by leading scientists of the Nation in private laboratories, universities, and such Federal agencies as the Departments of Defense and Commerce. The United States program is a national program, based on our Nation's needs. It encompasses work under eight major categories: astro-geophysical measurements, meteorology, oceanography, and glaciology, ionospheric physics, aurora and airglow, geomagnetism, cosmic rays, and rocket exploration of the upper atmosphere. The researches will be conducted in four major geographical regions of importance to our national interests: (1) Arctic and sub-Arctic; (2) middle latitudes of the Northern and Southern Hemispheres (including the United States, Central America, South America, and adjacent parts of the Atlantic and Pacific Oceans); (3) the equatorial Pacific (largely the Micronesia group of island possessions and trust territories of the United States); and (4) the Antarctic and sub-Antarctic.

This program of basic research in the earth sciences will add appreciably to our knowledge and understanding of the several fields. It will also, because geophysical data have immediate value in such fields as weather and radio-frequency forecasting, provide technical information of immediate practical value. The interest of the Nation in both these areas has been carefully considered by many scientists, by the United States national committee, and by the National Academy of Sciences. It has been reviewed and approved by the National Science Board.

The interests of the Government in the program are exceedingly great. The several agencies having responsibilities in various areas involving or depending upon geophysical phenomena are acquainted with the program. Members of several of their staffs have assisted in the formulation of the program. The Bureau of the Budget requested reviews by the Departments of State, Defense and Commerce, the Office of Defense Mobilization, and the Atomic Energy Commission. The National Science Foundation and the National Academy of Sciences have also consulted these agencies. Their letters of endorsement have been received.

The budget for the scientific program to be undertaken by the various nations is estimated to total approximately $100 million. Each nation provides for its own funds; no pooling of funds or subsidies are involved. The United States scientific program calls for total expenditures of $13 million. Of this, $2.5 million are required during fiscal year 1955 for the procurement of scientific equipment and instrumentation—e. g., upper atmosphere rockets and automatic ionospheric recorders—having a 2-year lead time; the remaining funds will be needed in fiscal year 1956. The program will largely be conducted by grants to private research institutions and universities; existing Federal facilities, where unique experience exists, will be utilized for the economic procurement of major items of specialized equipment.